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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

12 CR 0847 (PGG)

5 GILBERTO VALLE,

6 Defendant.

7 -----x

New York, N.Y.
February 27, 2013
10:25 a.m.

9
10 Before:

11 HON. PAUL G. GARDEPHE

12 District Judge
13 and a Jury

14 APPEARANCES

15 PREET BHARARA

United States Attorney for the
Southern District of New York

16 RANDALL W. JACKSON

HADASSA WAXMAN

17 Assistant United States Attorneys

Present: Annie Chen, Paralegal Specialist

18 Special Agent Anthony Foto, FBI

19 FEDERAL DEFENDERS OF NEW YORK

20 BY: JULIA GATTO

ROBERT M. BAUM

EDWARD ZAS

21 JOHN J. HUGHES

Attorneys for Defendant Valle

22 Present: Alexandra Katz, Paralegal

Anna Finkel, Investigator

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(In open court, jury not present)

THE COURT: I am going to rule on the issue that has been presented with respect to the 2011 database searches and the encounter with Ms. Frisca in April of 2011.

The defense has moved to preclude evidence concerning certain events that took place in 2011. (See February 26, 2013 Gatto letter.) The defendant is charged with conspiracy to commit kidnapping and with knowingly accessing a federal government database without authorization. The indictment charges that the kidnapping conspiracy ran "from at least in or about January 2012, up to and including on or about October 24, 2012." The unlawful access charge is based on an incident that took place on May 31, 2012.

The government has offered, and will offer, numerous Internet chats -- beginning in January 2012 -- in which the defendant agrees with others to kidnap, sexually abuse, murder, and eat certain women. The key, if not the only issue, in this case as to the kidnapping conspiracy charge is the defendant's intent. The government contends that the defendant fully intended to commit the crime; the defense maintains that the defendant's Internet chats simply reflect his sexual fantasies.

Before the Court is the defendant's motion to preclude evidence that he conducted unauthorized database searches regarding alleged kidnap targets Maureen Hartigan, Kimberly Sauer, Andria Noble and Kathleen Mangan. The searches

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1 regarding Maureen Hartigan and Andria Noble took place on July
2 20, the search regarding Kimberly Sauer took place on July 21;
3 and Kathleen Mangan, the search regarding her took place on
4 September 5, 2011. The database searched by the defendant
5 provide basic pedigree information, such as home address, date
6 of birth, height, weight, eye color, and criminal record, among
7 other things.

8 As I mentioned, the defendant also seeks to preclude
9 evidence of an encounter between himself and alleged kidnap
10 target Alisa Frisca in April of 2011.

11 The defendant argues that this evidence should be
12 excluded because it falls outside the conspiracy period charged
13 in the indictment. The defendant also points out that the
14 defense sought notice of any Rule 404(b) evidence long before
15 trial, and that the government provided no notice that it
16 intended to introduce Rule 404(b) evidence.

17 The government contends, among other things, that this
18 evidence is not Rule 404(b) evidence, but instead is,
19 "essential background and ... is necessary to complete the
20 story of how Mr. Valle positioned himself to further the goals
21 of the charged conspiracy," citing February 25, 2013 government
22 letter at 2.

23 The Second Circuit has noted that, "[t]o be relevant,
24 evidence need only tend to prove the government's case, and
25 evidence that adds context and dimension to the government's

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1 proof of the charges can have that tendency. Relevant evidence
2 is not confined to that which directly establishes an element
3 of the crime," citing United States v. Gonzalez, 110 F.3d 936,
4 941 (2d Cir. 1997). The Circuit has also stated, and I quote:
5 "The trial court may admit evidence that does not directly
6 establish an element of the offense charged, in order to
7 provide background for the events alleged in the indictment.
8 Background evidence may be admitted to show, for example, the
9 circumstances surrounding the events or to furnish an
10 explanation of the understanding or intent with which certain
11 acts were performed." Id. (quoting United States v. Coonan, 938
12 F.2d 1553, 1561 (2d Cir. 1991) (quoting United States v. Daly,
13 842 F.2d 1380, 1388 (2d Cir. 1988)).

14 There is, of course, "no requirement that all the
15 government's evidence fall within the time period of the
16 indictment, providing that it is relevant to the charges,"
17 citing United States v. Bagaric, 706 F.2d 42, 65 (2d Cir. 1983)
18 (approving admission of evidence concerning events 10 years
19 before charged offense, where evidence demonstrated
20 relationship between defendant and source of dynamite, citing
21 United States v. Del Purgatorio, 411 F.2d 84, 86-87 (2d Cir.
22 1969) The Second Circuit has approved the admission of
23 evidence occurring long before the time period charged in an
24 indictment where the evidence sheds light on the beginning of
25 the defendant's criminal involvement or his state of mind in

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1 the months proceeding that criminal involvement. See, e.g.,
2 Del Purgatorio, 411 F.2d at 86-87 (approving admission of
3 conversation eight months before charged conspiracy where the
4 conversation "show[ed] the beginning of [the defendant's]
5 involvement in the criminal enterprise and his state of mind at
6 the time").

7 "It is well established that 'evidence of uncharged
8 criminal activity is not considered other acts evidence under
9 Federal Rules of Evidence 404(b) if it "arose out of the same
10 transaction or series of transactions as the charged offense,
11 if it [is] inextricably intertwined with the evidence regarding
12 the charged offense, or if it is necessary to complete the
13 story of the crime [on] trial.'" Gonzalez, 110 F.3d at 942
14 (quoting United States v. Towne, 870 F.2d 880, 886 (2d Cir.
15 1989 (quoting United States v. Weeks, 716 F.2d 830, 832 (11th
16 Cir. 1983))).

17 As to the defendant's database search concerning his
18 wife, Kathleen Mangan, the government has not proffered any
19 theory as to how that search could have furthered a conspiracy,
20 to kidnap her, or how it could shed light on the defendant's
21 intent. The defendant already possessed the pedigree
22 information about Mangan contained in the various government
23 databases. He knew her address, date of birth, and all the
24 other information. Because the database search regarding
25 Mangan is not intertwined with the evidence regarding the

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1 charged offense and it is not necessary to complete the story
2 of the crime on trial, it will be excluded.

3 As to the search involving Hartigan, the government
4 has not proffered any evidence that there was ever an agreement
5 between Mr. Valle and someone else to kidnap Hartigan. Defense
6 counsel has asserted, and the government has not disputed, that
7 there are no Internet chats between the defendant and another
8 person involving a kidnapping of Hartigan. Given that at least
9 at this point in the trial there appears to be no evidence that
10 Valle conspired with someone to kidnap Hartigan, the fact that
11 Valle conducted an unauthorized database search concerning her
12 in July 2011 would simply be irrelevant. This alleged
13 unauthorized search could have been charged as a separate crime
14 under 18, United States Code, Section 1030(a)(2)(B), of course,
15 but the government did not seek such a charge against Valle.

16 As to Sauer and Noble, the facts are different. The
17 government has already proffered evidence of Internet chats
18 between the defendant and others in which a jury could find
19 that the defendant agreed to participate in kidnapping,
20 murdering, and eating them. These chats took place within the
21 period charged in the indictment. The question then, as to
22 them, is whether evidence of Valle's July 2011 database
23 searches concerning them can be said to be "inextricably
24 intertwined with the evidence regarding the charged offense" or
25 "necessary to complete the story of the crime on trial."

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1 Gonzalez, 110 F.3d at 942.

2 I conclude that the database searches regarding Sauer
3 and Noble are intertwined with the evidence regarding the
4 charged offense and necessary to complete the story of the
5 crime on trial. The evidence is thus relevant, probative and
6 admissible as background evidence to the charged conspiracy.

7 As an initial matter, these incidents are not, in my
8 view, Rule 404(b) evidence. These two remaining July 2011
9 database searches concern the same women whom Valle is in the
10 chats explicitly agreeing to kidnap. Moreover, there is strong
11 evidence that Mr. Valle had a long-term interest in kidnapping,
12 murdering and eating Sauer and Noble. Indeed, he said as much
13 in the Internet chats. As to Noble, Valle tells an alleged
14 co-conspirator "for eight years I've thought about cooking
15 her." (Government Exhibit 426 at 1) As to Sauer, Valle tells
16 a co-conspirator that he wants to cook her alive, and he
17 comments that "she has been one of my favorite victims to
18 fantasize about for almost 10 years now." (Government Exhibit
19 402 at 3) Accordingly, a jury could reasonably conclude that
20 in July 2011, Valle was interested in kidnapping, murdering and
21 eating both Sauer and Noble, and that he was collecting
22 pedigree information concerning these women in furtherance of
23 that interest. There is no obvious evidence of an innocent
24 motive in collecting this information in July 2011 and there is
25 evidence of a guilty motive.

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1 While there is no direct evidence that the database
2 searches conducted by Valle concerning Sauer and Noble led to
3 information that Valle used in the conspiracy, a reasonable
4 jury could conclude that they were part and parcel of Valle's
5 efforts to maintain information concerning the home addresses
6 of the alleged kidnap targets. The government has offered
7 evidence that Valle requested home address information from
8 Hartigan and Sauer, and proffers that there will be similar
9 evidence concerning Frisca. The information was obtained
10 through what the government contends was a ruse -- asking the
11 women whether they wanted a PBA card and when they said yes,
12 requesting their home address so that the PBA card could be
13 mailed to them.

14 Valle also engaged in the conduct at issue -- the
15 unauthorized searching of databases for information about women
16 he was alleged interested in kidnapping, both before and during
17 the charged conspiracy. See United States v. Rigas, 490 F.3d
18 208, 238-239 (2d Cir. 2007) (admitting as background evidence
19 fraudulent invoices submitted before the period charged in the
20 indictment, noting that these fraudulent invoices were
21 essentially the same as fraudulent invoices submitted during
22 the charged conspiracy).

23 The databases searches regarding Sauer and Noble also
24 shed light on Valle's state of mind in the months leading up to
25 his explicit conversations about kidnapping these women. Valle

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1 risked serious administrative and criminal charges in accessing
2 these databases without authorization. The government has
3 proffered that it will offer evidence that he was warned of
4 these penalties during his training as a police officer. Were
5 the jury to conclude that he nonetheless accessed these
6 databases to collect information on Sauer and Noble, that
7 determination would tend to rebut the defense theory that
8 Valle's statements about wanting to kidnap, murder, and eat
9 these women are fantasy. In accessing the databases, Valle was
10 exposing himself to criminal and administrative penalties, a
11 high price to pay for furthering an alleged sexually violent
12 fantasy.

13 Admission of the evidence concerning the database
14 searches regarding Sauer and Noble also tends to complete the
15 story of the charged conspiracy. The evidence tends to suggest
16 that Valle did not wake up on July, on January 1, 2012 with a
17 sudden desire to kidnap these women, but rather that he had
18 taken steps to collect useful information concerning them in
19 the months preceding 2012. The evidence is also consistent
20 with other evidence from 2011, including Google searches
21 involving oven equipment, Facebook searches concerning Kristen
22 Ponticelli, and posts on darkfetishnet.com concerning Hartigan.
23 The jury could view all of this conduct as preparatory to the
24 Internet chats in 2012, in which Valle repeatedly stated his
25 interests in kidnapping and committing other crimes against

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1 these women as well as his conclusion that he needs an
2 assistant to help him in his endeavors.

3 I have considered whether this evidence should be
4 excluded under Rule 403, and have concluded that exclusion is
5 not warranted under this rule. The evidence is probative for
6 the reasons stated and its probative value is not substantially
7 outweighed by a danger of unfair prejudice to the defendant.
8 Even absent this evidence, the jury would have heard about
9 Valle's alleged unauthorized database access in connection with
10 Count 2.

11 In sum, defendant's motion to preclude the database
12 access evidence is granted as to Mangan and Hartigan but denied
13 as to Sauer and Noble.

14 That brings me to the April 2011 incident involving
15 Alisa Frisca.

16 I understand that Alisa Frisca worked with Valle's
17 wife at PS 375 at East 111th Street and Lexington Avenue.
18 Valle had met Frisca through his wife, but he had no
19 independent relationship with her. Valle's wife stopped
20 working at PS 375 in June 2010. Valle had no apparent reason
21 to be waiting for Frisca outside of her school in April of
22 2011. This location is nowhere near his precinct, which was on
23 the Upper West Side. Nonetheless, the government has proffered
24 that Frisca is prepared to testify that Valle was waiting for
25 her outside her school one day in April of 2011. He was alone

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1 in his squad car and got out of his car when he saw her exit
2 the school. They apparently had a brief conversation and
3 Frisca then walked away.

4 The encounter -- as described by the government -- is
5 reminiscent of a thought Valle mentions to an alleged
6 co-conspirator on February 28, 2012 during a conversation about
7 kidnapping, raping, torturing, and murdering Frisca. He tells
8 the alleged co-conspirator, Michael Vanhise, that "it will be
9 absolutely amazing to watch [Frisca] come out of her school and
10 follow her without her knowing." Government Exhibit 432 at 2)

11 Having said that, the April 2011 encounter takes place
12 approximately 10 months before Frisca is first mentioned on the
13 Internet chats. There likewise appears to be no evidence that
14 Valle had long harbored thoughts of kidnapping and murdering
15 Frisca. Stated another way, there is no evidence comparable to
16 the evidence that I have discussed concerning Sauer and Noble.

17 Because the government has not offered evidence that
18 Valle had formed and intent to kidnap Frisca in April of 2011,
19 the April 2011 will be excluded.

20 Anything the parties want to raise?

21 MS. GATTO: Yes, a couple of matters, your Honor.

22 One, before the evidence relating to NCIC searches and
23 Ms. Sauer and Ms. Noble be entered into evidence, that the jury
24 be instructed to -- really two instructions -- (1) that the
25 searches are being introduced only for the limited purpose as

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1 background to Count 1; and (2) this is a big concern for us,
2 that these searches in 2011 may not be considered at all as to
3 Count 2 -- certainly for Count 2 it is pure propensity.

4 THE COURT: I take it that the government has no
5 objection to that?

6 MS. WAXMAN: No objection, your Honor.

7 THE COURT: So I will instruct the jury that the
8 database search evidence of 2011 is being admitted only as
9 background evidence as to Count 1 the kidnap and conspiracy
10 charge and that this evidence has no relevance to Count 2 which
11 charges Valle with accessing the database in May of 2012. Is
12 that acceptable?

13 MS. GATTO: Yes, your Honor. Thank you.

14 One other matter, we wanted to talk about scheduling,
15 but I don't know if you want to talk about that on our next
16 break, if your intention is to get the jury started since we
17 are starting late, if you want to do that.

18 THE COURT: Maybe we should.

19 Anything the government wants to raise?

20 MS. GATTO: One other thing, I just wanted to make
21 sure that the factual basis was accurate for your Honor's
22 ruling. I don't want to misstate, but I thought that you had
23 said in your ruling regarding NCIC searches that (1) the
24 government had proffered that there would be evidence related
25 to do the PBA card being used as a ruse to get the address for

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1 Ms. Frisca. I don't think that is the proffer.

2 THE COURT: Mr. Jackson, did I miscite that?

3 MR. JACKSON: Yes, your Honor. It is not our proffer
4 that he attempted to get Ms. Frisca's information with the PBA
5 card. He could get that from Ms. Mangan. He asked Ms. Mangan
6 to give a PBA card to Ms. Frisca. Our belief is that he was
7 doing that in order to intend to build a relationship of trust
8 with Ms. Frisca.

9 THE COURT: All right. So it is not the government's
10 contention that he used the PBA card as a way to get Ms.
11 Frisca's address?

12 MR. JACKSON: That's correct. your Honor.

13 THE COURT: I appreciate that correction.

14 MS. GATTO: One other, and it seemed to me -- I took a
15 note and I may be wrong, but also the Court thought that there
16 was PBA card testimony as it relates to Ms. Noble and there was
17 no PBA card testimony as it relates to Ms. Noble.

18 THE COURT: Actually, my discussion of PBA card was in
19 the context of Hartigan, Sauer and Frisca, so I appreciate the
20 correction with respect to Ms. Frisca, but it doesn't change
21 the outcome.

22 Anything else?

23 MS. WAXMAN: Not from the government, your Honor.

24
25 (Continued on next page)

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Waters - direct

1 (Jury present)

2 MS. WAXMAN: Your Honor, may we have a moment?

3 THE COURT: Sorry for the delay this morning, ladies
4 and gentlemen. I had some difficulty getting to the courthouse
5 today -- I hope you didn't, but I did. I also had to issue a
6 legal ruling concerning some of the evidence that you are going
7 to hear this morning. So I apologize for the delay.

8 JONATHAN WATERS,

9 called as a witness by the government,
10 having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. JACKSON:

13 THE COURT: Do you wish to approach, Ms. Gatto?

14 MS. GATTO: Yes, your Honor.

15
16 (Continued on next page)

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Waters - direct

1 (At the sidebar)

2 MS. GATTO: I'm sorry, but I thought Ms. Frisca was
3 first, and with this witness, I have an exhibit -- and based on
4 the Court's ruling -- it would have to be partially redacted.
5 I don't know if you intend to introduce the NCIC audits.

6 MR. JACKSON: You bring up a good point.

7 The NCIC audits have a number of reference to facts
8 that have to be redacted pursuant to the Court's ruling, but my
9 plan is to introduce it subject to the Court's prior ruling. I
10 am not going to go through it in any detail today and then we
11 can redact it. The jury is not going to actually go through
12 that.

13 MS. GATTO: Then that will solve that -- maybe we
14 could resolve this right here. I notice that the exhibit in
15 the government's binder is not the complete chart, it was sent
16 it us in discovery in two batches.

17 MR. JACKSON: There are two different exhibits.

18 MS. GATTO: Is it all of the NCIC audits, so we can
19 work out the redactions and I don't have a problem.

20 THE COURT: We are all set?

21 MR. BAUM: Just one moment, Judge?

22 MS. GATTO: Thank you very much.

23
24 (Continued on next page)
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Waters - direct

1 (In open court)

2 THE COURT: Ladies and gentlemen, you may have noticed
3 that Agent Walsh is not on the stand this morning. We are
4 interrupting Agent Walsh's testimony to hear from witnesses who
5 had to travel to be here. We will take their testimony, both
6 direct and cross, and then we will pick up with Agent Walsh
7 later today. I wanted you to understand why we have a new
8 witness this morning.

9 JURORS: Thank you, your Honor.

10 THE COURT: You may proceed, Mr. Jackson.

11 MR. JACKSON: Thank you.

12 BY MR. JACKSON:

13 Q. Good morning, Mr. Waters.

14 A. Good morning, sir.

15 Q. Mr. Waters, where do you work?

16 A. I work at Datamax Applied Technologies.

17 Q. Can I ask you to slide the microphone as close to your
18 mouth as possible, just because this courtroom is very --

19 A. Is that better.

20 Q. Yes. Thank you.

21 Could you tell me again where you work, Mr. Waters?

22 A. Datamax Applied Technologies.

23 Q. What is Datamax?

24 A. We are a company that provides computer systems to the law
25 enforcement environment.

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Waters - direct

1 Q. When you say "computer systems," what are you talking
2 about?

3 A. We are talking about systems that allow authorized users to
4 access various databases, both from desktop and from mobile
5 data systems, handheld and a variety of devices.

6 Q. I want to talk more about what Datamax does. Briefly can
7 you explain what you do at Datamax?

8 A. I am the executive vice president and chief technology
9 officer responsible for implementation of most major systems.

10 Q. How long have you been at Datamax?

11 A. 21 years.

12 Q. Just in brief summary, what do you do in your job on a
13 daily basis?

14 A. I analyze the requirements. I work with the staff to
15 implement and do a lot of the actual implementations of the
16 software systems personally, myself.

17 Q. So you were telling us that you provide support to
18 different law enforcement agencies. What are some of the law
19 enforcement agencies that Datamax works with?

20 A. We work with the Federal Bureau of Investigation, the
21 National Crime Information Center. We work with the New York
22 Police Department. We work with many states such as the state
23 of Washington, the State of Nebraska, the State of Maryland.

24 Q. Do you know how many police officers, approximately, are in
25 the New York City Police Department?

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Waters - direct

1 A. I believe approximately 45,000.

2 Q. What are some of the things that Datamax does for the New
3 York City Police Department?

4 A. We provide the systems that are used by the officers in the
5 cars and on their handheld devices to access various databases.

6 Q. Can you describe how these systems work, generally?

7 A. Yes. An end user has a device such as a laptop or a
8 handheld such as a BlackBerry. They enter information into it
9 such as driver's license, name, date of birth. They send that
10 system to the police headquarters, and the system there
11 distributes the data to various databases to see what is in the
12 database regarding the information that was put in.

13 Q. I want to show you something that has been marked as
14 Government Exhibit 2000. Do you recognize that document, Mr.
15 Waters?

16 A. Yes, I do.

17 Q. What is it?

18 A. This document shows at a high level, the data flow of when
19 someone creates a query in a police vehicle and the flow of
20 data to the different computer systems and the databases that
21 would be accessed by it.

22 Q. Is that a summary of the systems that are accessed through
23 Datamax?

24 A. In this case, this is a high-level summary for the NYPD.

25 MR. JACKSON: Your Honor, the government offers

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Waters - direct

1 Government Exhibit 2000.

2 MS. GATTO: Your Honor, we object.

3 THE COURT: Would you like a sidebar?

4 MS. GATTO: Yes, please.

5 MR. JACKSON: Your Honor, before we go to the sidebar,
6 may I ask one more foundation question?

7 THE COURT: Sure.

8 Q. Mr. Waters, do you know who created the summary that is
9 Government Exhibit 2000?

10 A. Yes, I do.

11 Q. Who created it?

12 A. I did.

13 MR. JACKSON: Thank you.

14
15 (Continued on next page)

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Waters - direct

1 (At the sidebar)

2 MR. BAUM: Your Honor, the basis for our objection to
3 permit this in evidence, to have him read it in and explain it
4 crosses that line between layperson -- and I won't use the word
5 "expert" because that is not the word used in the Federal Rules
6 of Evidence, but he becomes a witness with specialized
7 knowledge that would have to be qualified under Rule 702.

8 THE COURT: In the future, if you know you are going
9 to have an objection to an exhibit like this, I need you to
10 raise it ahead of time. You knew that they were going to offer
11 it. There is absolutely no reason why we should be taking it
12 up now. It could have been raised before now.

13 MR. BAUM: We explained the objection to the Court.
14 Mr. Jackson proffered, in most respects, he would be clerical
15 in nature --

16 THE COURT: You didn't raise any objection to this
17 document yesterday.

18 MR. BAUM: We wanted to know if he did it or just a
19 person that kept a record, it would be clerical in nature. If
20 he intends now to explain it -- which I have no doubt now he
21 does -- he becomes a witness with specialized knowledge.

22 THE COURT: I think that was obvious yesterday and
23 probably for a long time before that.

24 MR. JACKSON: Your Honor, we told defense counsel
25 yesterday and previously that we would ask for a brief

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Waters - direct

1 explanation of what Datamax does. He is explaining how their
2 systems work.

3 THE COURT: I don't find his explanation of what
4 databases are available to the system calls for any expert
5 testimony, specialized knowledge, technical knowledge. It is
6 just going to be simply an explanation of what the cop in the
7 car can access through that system. Is that it?

8 MR. JACKSON: Yes, sir.

9 THE COURT: Do you think that calls for technical
10 information or specialized information?

11 MR. BAUM: Just to say about the computer and car,
12 just that these databases would not be specialized
13 information --

14 THE COURT: Are we going beyond that?

15 MR. JACKSON: He was going to give a very brief
16 explanation of how the system works. It is not specialized
17 knowledge.

18 MR. BAUM: To say how the system works is specialized
19 knowledge. No layperson could explain that.

20 THE COURT: I don't know the nature of the testimony
21 but what I am anticipating is that he is going to explain what
22 databases the cop in the car can access. And if that's what he
23 is doing, I don't see how that involves specialized or
24 technical knowledge.

25 MR. BAUM: What if he starts going into how you access

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Waters - direct

1 these databases, how they are hooked up, what information you
2 get from the databases? That is specialized knowledge.

3 MR. JACKSON: Your Honor, there is a fundamental
4 problem with what Mr. Baum is saying. He is attempting to
5 suggest that any area of knowledge that a person has, that is
6 beyond the ken of every person on the street because expert
7 testimony requires notice.

8 He is not offering any opinions. He is not offering
9 anything that requires conclusions or for him to make an
10 assessment of various facts. He is simply relaying the facts
11 of how his company works what they do for the NYPD. And they
12 have been aware since the beginning of this case that we were
13 going to call witnesses who were going to explain just how the
14 system works and what they were able to retrieve from the
15 system.

16 THE COURT: I might say, to the extent that the
17 witness is going to testify that from the database you can
18 access date of birth, DMV information, I think everybody here
19 probably already knows that, certainly if you have ever been
20 pulled over by a police officer you know that. That it is
21 beyond the ken of a juror and requires expert knowledge, I
22 don't think so.

23 At this point I am overruling the objection. If you
24 feel that his testimony goes beyond what I just said, then you
25 are welcome to object.

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Waters - direct

1 MR. BAUM: A sidebar may not be necessary. We don't
2 want to delay it. We just point out that our objections -- Mr.
3 Jackson argued that our objections would be to a person who has
4 knowledge beyond the ken of the jury -- our objection is based
5 on 701 and 702.

6
7 (Continued on next page)

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Waters - direct

1 (In open court)

2 THE COURT: I am overruling the objection to
3 Government Exhibit 2000.

4 You may proceed.

5 MR. JACKSON: Thank you.

6 Your Honor, may we publish Government Exhibit 2000?

7 THE COURT: You may.

8 BY MR. JACKSON:

9 Q. Mr. Waters, can you just explain what is depicted on this
10 chart?

11 A. Right. This chart, if you start at the top, the blue box,
12 the NYPD police vehicle, that is where a laptop or similar
13 device would be mounted.

14 Data then flows through a communications system
15 labeled "New York Wireless Communication Network." That
16 information is received by a computer system installed at One
17 Police Plaza.

18 That computer system looks at the data that was sent
19 in and then calculates automatically all of the various
20 databases that may have information that would be of interest
21 to the data sent in.

22 Q. This chart identifies some of the databases that are
23 accessed when a person on a laptop in an NYPD vehicle accesses
24 the system. What are these databases that you identify here?

25 A. On the left there, the one labeled New York police

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Waters - direct

1 department databases, these are databases run by the New York
2 Police Department itself for wants and warrants, for pistol
3 licenses and domestic violence records.

4 Q. What about this purple box to the right under New York
5 State police?

6 A. The New York State police information networks creates
7 connectivity to four databases that are maintained by the State
8 of New York, which is the New York Motor Vehicles which is
9 driver's licenses, vehicle registrations, the New York State
10 police wanted persons files, New York State police paroled
11 persons files and the New York State police protection orders.

12 Q. Now, there are two additional boxes, this orange box that
13 says -- let me just back up very quickly.

14 New York State police, what are some of the types of
15 information that are accessed when a person accesses these New
16 York State databases?

17 A. Well, depending on what was given, say, a driver's license
18 number or a person's name, they will do the state system in
19 Albany or records located there, will look at all of its
20 databases and see if there is any matching information to be
21 found and if so, we will return that information or something
22 that says no record found.

23 Q. Could that include address information and other
24 information?

25 A. Yes, it could, depending on the database.

D2RUVAL1

Waters - direct

1 Q. Now, over here we have the National Law Enforcement
2 telecommunications system. What is accessed at that database?

3 A. What that is, if a request is made for information such as
4 a driver's license or person that is not within New York State
5 such as California, Nebraska or any other state, that data then
6 flows through the National Law Enforcement telecommunications
7 system to go to that target state and returns via that. So
8 that is used for systems that are not within the State of New
9 York.

10 Q. The final one you have over in the bottom left corner, the
11 National Crime Information Center, first of all, what is the
12 National Crime Information Center?

13 A. The National Crime Information Center is a repository
14 maintained by the FBI in which agencies place data, wants,
15 warrants, stolen vehicles, stolen guns -- information that may
16 be of interest nationally to law enforcement.

17 Q. In your role at Datamax, in order to facilitate access,
18 have you had to visit the National Drug Information system?

19 A. Yes.

20 Q. Where is that?

21 A. It is in Clarksburg, West Virginia.

22 Q. So you described these various databases that are accessed
23 through the Datamax system. I think you mentioned there is a
24 car and also a handheld unit that is available. What is the
25 handheld unit?

D2RUVAL1

Waters - direct

1 A. The handheld device is a such as BlackBerry or smart phone
2 but also offers access through the server at One Police Plaza.

3 Q. Now, Mr. Waters, in the course of the last several months,
4 were you asked by the U.S. Attorney's office or the NYPD to
5 conduct any searches through your system of specific records?

6 A. Yes, we were.

7 Q. I want to hand you what has been marked first as Government
8 Exhibits 615 and 617. Do you recognize those items?

9 A. Yes, I do, sir.

10 Q. What are Exhibits 615 and 617?

11 A. These are summaries of transactions that were processed by
12 the server at One Police Plaza with functions requested from
13 various mobile devices such as laptops in cars.

14 MR. JACKSON: Your Honor, the government offers
15 Government Exhibits 615 and 617, subject to the Court's prior
16 rulings.

17 MS. GATTO: No objection.

18 THE COURT: All right. Then Government Exhibits 615
19 and 617, those exhibits are received.

20 (Government Exhibits 615, 617 received in evidence)

21 MR. JACKSON: Your Honor, I would like to go through
22 the first page of Government Exhibit 615 to explain what they
23 are looking at. Could I publish that?

24 THE COURT: Yes.

25 Q. Now, Mr. Waters, first of all, what is Government Exhibit

D2RUVAL1

Waters - direct

1 615?

2 A. This is a summary of transactions that were run with date
3 and time by the user who was identified by 942642 at the dates
4 and times that are shown there.

5 Q. When you say the user identified by 942642, what does that
6 refer to?

7 A. That refers to, in the context of NYPD, what they call the
8 tax ID which is used to identify officers as a log-on accessing
9 the system.

10 Q. Does every NYPD officer have a unique tax ID number?

11 A. To my knowledge, yes.

12 Q. In order to access that Datamax system, are they also
13 required to put in any other information besides their tax ID
14 number?

15 A. They also must enter their password.

16 Q. Password that each NYPD officer has?

17 A. Correct.

18 Q. In the next column it says date and time. What does that
19 refer to?

20 A. That is the date and time stamp of when the transaction was
21 received at the computer system at One Police Plaza.

22 Q. This next column says reference ID, what does that refer
23 to?

24 A. Reference ID is a unique stamp that we put on every message
25 for audit purposes so that we can identify when it was run and

D2RUVAL1

Waters - direct

1 what the contents were.

2 Q. Can you just explain these next two items, MKE and summary,
3 what we have here?

4 A. MKE is an acronym for message key and that is the actual
5 function that was performed or was received by the server at
6 One Police Plaza. And the summary is a summary -- not the
7 detail, but a summary of the transaction, sort of a shorthand
8 for quick reference.

9 Q. So for example, in this first entry where it says LN and
10 MKE and LN 942642, what does that stand for?

11 A. LN stands for log-on and the summary is what is the data
12 that was provided with the log-on request.

13 Q. So a person attempting to log on and entered this specific
14 tax ID number?

15 A. Correct.

16 Q. There is another column, the next column says ticket. What
17 is that. This column that says ticket, could you explain what
18 that refers to?

19 A. Yes. The ticket it is not a ticket like a speeding ticket
20 or a parking ticket. This is a temporary authorization for
21 that user to use the system for a certain period of time from
22 that device.

23 Q. When say an authorization, you mean a digital
24 authorization?

25 A. Correct.

D2RUVAL1

Waters - direct

1 Q. Why does Datamax require a ticket to be issued when the
2 user enters their ID and password?

3 A. We use it for tracking all of our activity, when they
4 logged on and when they logged off and everything that is run
5 with it.

6 Q. Just to run through these last few. Event type description
7 what does that refer to?

8 A. Event type is input message. That was data that came from
9 the device, the laptop. And output message is what was
10 responded back.

11 Q. And interface?

12 A. Interface in this way it is coded as OFM. OFM stands for
13 Omni Force Mobile, which means this came from a laptop device
14 instead of a handheld device.

15 Q. Is the OFM laptop device the same used by NYPD in their
16 cars?

17 A. No. It is the software program used on the laptop.

18 Q. And device, what does that refer to?

19 A. The device is a unique identifier that uniquely identifies
20 the actual laptop or handheld device from which the message was
21 sent.

22 Q. Finally, address, what does that refer to?

23 A. The address is a technical term for where the device was
24 and how it was accessed and relates to the vehicle that the
25 laptop was in or the actual handheld device used by the

D2RUVAL1

Waters - direct

1 officer.

2 Q. Just to summarize, what you are talking about was 615 and
3 617 are all of the transactions for a user with 942642 tax ID
4 number during a specific time period?

5 A. Yes, sir.

6 MR. JACKSON: You can take that down, Ms. Chen.

7 Q. Now at any point did you run through your system and create
8 printouts for certain specific items that were the subject of
9 942642 searches that are described in those database summaries
10 that you just went through?

11 A. Yes, sir.

12 Q. I want to hand you what has been marked as Government
13 Exhibits 616B, 616C and 616E. Have you had a chance to look at
14 those?

15 A. If you will give me a minute I will look at them.

16 Q. You don't need to review them in entirety, but have you had
17 a chance to glance at those exhibits?

18 A. Yes, I have.

19 Q. To be clear, you have seen those exhibits before, right?

20 A. Yes, sir.

21 Q. What are they?

22 A. These exhibits here, the top page shows a summary of very
23 detailed transactions and then the following pages are the
24 actual details of all the data exchanges that went back and
25 forth between the laptop and the databases.

D2RUVAL1

Waters - direct

1 Q. Now, I know you have conducted a number of searches, but
2 today I want to talk only about B, C and E, these three
3 exhibits.

4 MR. JACKSON: The government offers 616B, C and E,
5 your Honor.

6 THE COURT: Any objection?

7 MS. GATTO: No objection.

8 THE COURT: Government Exhibits 616B, C and E are
9 received.

10 (Government Exhibits 616B, 616C and 616E received in
11 evidence)

12 MR. JACKSON: Your Honor, may we publish Government
13 Exhibit 616B?

14 THE COURT: Yes.

15 Q. Mr. Waters, can you just explain what is depicted on the
16 first page of 616B?

17 A. Pictured on the first page is the summary of a person query
18 that was made on the 07/20/2011 at 17:03 with the information
19 of Condez Andria, date of birth and F for female.

20 Q. Can you just explain what that means in terms of being a
21 summary of a search of this person?

22 A. What we did in this case, we are drilling down into the
23 overall list of records we are provided and we are returning
24 information in reference to a subject of Condez, Andria. So we
25 are isolating messages concerning that subject.

D2RUVAL1

Waters - direct

1 Q. So, in essence, this is one of the searches that we talked
2 about with the 94642 subject user and you are saying that there
3 was a search conducted on Andria Condez and this contains all
4 of the information for that?

5 A. Yes, sir. And it also in the summary gives you the date,
6 the time and the user and the reference ID.

7 Q. For this one, what is the date?

8 A. The date on this one is the July 20, 2011.

9 Q. What is the time?

10 A. And the time is 5:03 in the afternoon. Now that is
11 Greenwich meantime, not clock time, New York.

12 Q. What does that mean?

13 A. For legal reasons every record is stamped with what is
14 called Universal Time, so it is not affected by Daylight
15 Savings Time changes, so we can pinpoint the time exactly.

16 Q. The other information here matches up with what you were
17 telling us about the summary, right?

18 A. Yes, sir.

19 Q. Can we go to the next page of this exhibit?

20 A. Yes, sir.

21 Q. Now, what are we looking at here, Mr. Waters?

22 A. What you are looking at here is not only the query that was
23 made but also the responses that came back from the various
24 databases to that query.

25 Q. What do you mean when you say responses?

D2RUVAl1

Waters - direct

1 A. When you query the database, all of the different data
2 sources will return information, so this is the information
3 that came back from each individual database that was queried.

4 Q. Can we go to the next page.

5 What is depicted here, Mr. Waters?

6 A. This is depicted as a response from the state of Ohio Motor
7 Vehicles to a query that was made with subject Andria Condez,
8 and that is the response that came back from the state of
9 Ohio's Motor Vehicles database with the information.

10 Q. So this is the information that was actually transmitted
11 back to the computer after the person entered in Andria Condez?

12 A. Yes, sir.

13 Q. And the next page.

14 A. This is a response from the state system in Albany saying
15 that the name Andria Condez was not located in the state order
16 of protection file.

17 Q. Can we go to the next page.

18 What is depicted here?

19 A. This is a response that came back from the state databases
20 saying that the name Andria Condez was not found in the parole
21 database in Albany.

22 Q. The next page?

23 A. This is a response from the state databases saying that the
24 name Andria Condez was not found in their wanted person
25 database.

D2RUVAL1

Waters - direct

1 Q. The next page?

2 A. This is a response from the National Crime Information
3 Center that the name Andria Condez was not found in the NCIC
4 database.

5 Q. Now, each of these databases that you are talking about
6 where there was a response generated, does that mean when that
7 search went in all of these databases were accessed?

8 A. Yes, sir.

9 Thank you, Mr. Waters.

10 Now, can we turn your attention to Government Exhibit
11 616C.

12 MR. JACKSON: Your Honor, may we publish Government
13 Exhibit 616C?

14 THE COURT: Yes.

15 MR. JACKSON: Thank you.

16 Q. What is depicted here?

17 A. This depiction shows not only queries that were made on the
18 name Kimberly Sauer but also a log-on and other messages that
19 did not pertain such as AFR Sync which does not pertain to any
20 database query.

21 Q. So at the top here where it says LF 942642, what does that
22 mean? What do we see there?

23 A. That is -- these are in reverse temporal order. In other
24 words, after these functions were performed, a log-off function
25 was received at the server.

D2RUVAL1

Waters - direct

1 Q. I see. So at the bottom we are seeing the various outputs
2 from the system as a result of someone entering Kimberly Sauer
3 and this is the log-off?

4 A. Correct. This reads in reverse time order, the newest at
5 the top, the oldest at the bottom.

6 Q. Can we go to the next page. And what is depicted here?

7 A. This is a response from the Maryland Department of Motor
8 Vehicles saying that the name Kimberly N. Sauer, date of birth,
9 02/27, female was not found in their database.

10 Q. Does that indicate that the person who entered this also
11 gave the date of birth as well as the name?

12 A. Yes.

13 Q. Can you go to the next page. And the next page, what is
14 depicted here?

15 A. This is a response from the National Crime Information
16 Center saying that the name Kimberly Sauer, date of birth,
17 1984, 02/27 as a female is not found in the NCIC database.

18 Q. Can we now go to Government Exhibit 616E.

19 MR. JACKSON: Your Honor, may we publish it?

20 THE COURT: Yes.

21 Q. What are we looking at here, Mr. Waters?

22 A. You are looking at the bottom, an input message with a
23 query for the person Maureen Hartigan and the responses reading
24 up that came back from the databases to which that message was
25 sent.

D2RUVAl1

Waters - direct

1 Q. What is the user ID of the person who is using that into
2 the system?

3 A. The user ID is 942642.

4 Q. When did this accessing of the system to get information on
5 Maureen Hartigan occur?

6 A. This occurred on May 31, 2012.

7 Q. And what was the time that this occurred?

8 A. The time stamp is 15:43, which is 3:43 in the afternoon.

9 Q. Actually, can we go to the next page. What is the depicted
10 here?

11 A. Depicted here is a response from the New York Department of
12 Motor Vehicles with information about subject Maureen Hartigan,
13 date of birth 6/14/1986.

14 Q. What is some of the information this user ID is able to get
15 about Ms. Hartigan that is depicted here?

16 A. The information provided is the address that they have on
17 file in New York for that person, information about the
18 validity of the driver's license, some personal identifiers
19 such as the height of the subject and their eyes and also some
20 information about incidents that may have occurred under that
21 driver's license such as the restrictions, corrective lenses
22 and any list of accidents that may have occurred.

23 Q. Can you go to the next page, and the next page. What is
24 depicted here?

25 A. This is a response from the National Crime Information

D2RUVAL1

Waters - direct

1 Center saying that they do not have any records on subject
2 Maureen Hartigan, date of birth 1986, 6/14, female.

3 Q. So to be clear, the person who accessed the system on this
4 day accessed NCIC?

5 A. Yes, sir.

6 Q. Mr. Waters, how long has your company been working with the
7 NYPD?

8 A. 12 years, sir.

9 MR. JACKSON: No further questions, your Honor.

10 THE COURT: Cross-examination.

11 MS. GATTO: Yes.

12 CROSS-EXAMINATION

13 BY MS. GATTO:

14 Q. Good morning, Mr. Waters.

15 A. Good morning.

16 MS. GATTO: Ms. Chen, if you could put up Government
17 Exhibit 615, please.

18 Q. Mr. Waters, I would like to just ask you a few questions
19 about the first page.

20 A. OK.

21 Q. Do you see at the very top line under MKE, it has the
22 letters LN?

23 A. Yes, ma'am.

24 Q. I think you testified that that means that the user is
25 logging into the system?

D2RUVAL1

Waters - cross

1 A. He is attempting to log on to the system.

2 Q. Following that right below it is the word ERR, do you see
3 that?

4 A. Yes, I do.

5 Q. Does that indicate that there was some sort of error?

6 A. Yes it does.

7

8 (Continued on next page)

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D2r6val2

Waters - cross

1 BY MS. GATTO:

2 Q. If you go -- one, two, three, four, five, six, seven,
3 eight -- eight lines down starting from the top in the column
4 NKE, you see LN followed by ERR several times. Do you see
5 that?

6 A. Yes, ma'am.

7 Q. So that indicates that there was some error logging on?

8 A. Correct.

9 Q. Is that a computer problem or a computer user problem?

10 A. That is -- its kind of both because it could be a user
11 problem or "fat finger" on the password or the computer or they
12 accidentally turned on the caps lock also. Because the passwords
13 are hidden and the user doesn't see what is typed in.

14 Q. It is not uncommon in flipping through that to see the ERR
15 under the NKE?

16 A. That is correct.

17 Q. Oftentimes where the system malfunctions if -- that may be
18 too strong of a word. Let me rephrase.

19 There is oftentimes when the system is not properly
20 functioning?

21 A. I don't are agree.

22 Q. You don't agree. It is true though that sometimes the
23 system will connect to the databases, is that correct?

24 A. That's true but on incredibly rare occasions.

25 Q. But it is not uncommon, right, to log in and put a name or

D2r6val2

Waters - cross

1 input some information and for the information not to come
2 back?

3 A. No. That is not common.

4 Q. Isn't it true that sometimes the system is not connecting?
5 You know the science better than me. Maybe I should take a
6 step back.

7 So basically the way it works -- correct me when I am
8 wrong -- a user will input the information into a lap top in
9 the parole car, correct?

10 A. Correct.

11 Q. And then that information is sent out to various databases,
12 correct?

13 A. Correct.

14 Q. And the database will then return to the user the
15 information that was requested?

16 A. Correct.

17 Q. Now, isn't it true that sometimes the information will go
18 out to one database but not another?

19 A. That is theoretically possible, but the uptime starts are
20 like 99.9 percent.

21 Q. Let's do this. I think it might be easier to talk in less
22 abstract.

23 MS. GATTO: Ms. Chen, if you can take us to the third
24 page of Government Exhibit 615.

25 Q. You see here -- one, two, three, four -- four down the user

D2r6val2

Waters - cross

1 number is 942642 as it is for this entire chart and the user
2 has inputted the name Gilberto Valle. Do you see that?

3 A. Yes, ma'am.

4 Q. And so if you keep following along the --

5 MS. GATTO: Actually, Ms. Chen, can you blow it up for
6 me?

7 Q. If you follow across under the event type description, it
8 says "input message," right?

9 A. Correct.

10 Q. So that means the user inputted the name Gilberto Valle?

11 A. Correct.

12 Q. Then there are -- one, two, three -- three output messages?

13 A. Correct.

14 Q. So the user has attempted to access multiple databases but
15 has returned through output messages?

16 A. That is correct.

17 Q. Now, if you return to the first page. Let's take by way of
18 example about halfway down at 12:22:10.

19 MS. GATTO: Ms. chen, if you can highlight that whole
20 section?

21 A. Yes, ma'am.

22 Q. There the user has inputted OFM_QVFDV6295. Do you see
23 that?

24 A. Yes, ma'am.

25 Q. And the output messages are way more than when we saw when

D2r6val2

Waters - cross

1 we were looking at that Gilberto Valle?

2 A. That is correct.

3 Q. So this time the system returned more messages?

4 A. Because a different function was requested.

5 Q. So there is a function where you ask for certain things?

6 A. Yes.

7 Q. And you can access more databases?

8 A. Correct.

9 Q. The user controls how many databases?

10 A. No.

11 Q. Who controls how many databases are accessed?

12 A. The system such as NCIC and the New York system access the
13 databases based on the type of request. In your example,
14 ma'am, this was an query about a license plate number of a
15 vehicle as distinct from other examples where you are querying
16 on the person's information. So depending on the content
17 provided, you get different results.

18 Q. I understand. So depending on what information you input
19 into the system, it accesses a different number of databases?

20 A. Correct.

21 Q. Are there times where the system is being maintained so the
22 users don't have access?

23 A. There is no scheduled downtime in this system.

24 Q. Is it Internet based? How is the information transmitted?

25 A. This system never touches the Internet at all. It is all

D2r6val2

Waters - cross

1 on private, secure encrypted networks.

2 Q. It is some sort of wireless system?

3 A. It is a bunch of them. The system that runs from the lap
4 top to One Police Plaza is run by the City of New York. It is
5 a private nonInternet based network. And then the information
6 that runs from One Police Plaza to the New York State Police
7 and then to NCIC is non Internet based on a private encrypted
8 network.

9 Q. I see. If you could look also, Mr. Waters, at 616 C.

10 MS. GATTO: Ms. Chen, if you wouldn't mind.

11 Q. By the way, you testified AFR sync means what?

12 A. Okay. That is a function that has nothing to do with the
13 query and it is a function that if the officer was filling out
14 something like a traffic ticket, that information would be sent
15 out; but since there is nothing attached to it, it has no
16 bearing on this.

17 Q. I am confused. Can you explain that again?

18 A. This is -- a AFR sync is a totally different function that
19 is used for uploading information that may have been entered as
20 a traffic ticket rather than a query to databases.

21 Q. I see. And this here is the input message whenever the
22 user here used Ms. Sauer's name?

23 A. That is correct.

24 Q. We see the input message a little more than halfway down?

25 A. Correct.

D2r6val2

Waters - cross

1 Q. Then we see the output messages. That is the information
2 that the user obtained?

3 A. Correct.

4 MS. GATTO: If you can flip through the pages,
5 Ms. Chen.

6 Q. If you flip through the pages, is this the screen that the
7 user would see?

8 A. No. The portions of the information here starting with the
9 word TXT and going down to TXT will be the actual information
10 displayed. The information at the top there is not all
11 displayed to the user and is part of our auditing and
12 accounting process.

13 Q. I see. The text. Everything below the two columns that
14 have the shaded area, the text below that is what the user
15 sees?

16 A. No, ma'am. If you go about halfway down, you will see
17 something that looks like a little pointy thing, TXT.

18 Q. Uh-huh.

19 A. That is the -- that, yes. It is now being highlighted
20 here. That is the information that will actually display to
21 the officer's screen.

22 Q. So focusing on this first page.

23 MS. GATTO: Thank you, Ms. Chen, for highlighting it.

24 Q. Am I right that Ms. Sauer's address doesn't appear in what
25 the user would see?

D2r6val2

Waters - cross

1 A. That is correct because the address was not provided by the
2 system.

3 Q. Great.

4 MS. GATTO: Then the next page, Ms. Chen, if you
5 wouldn't mind.

6 Q. So here the user sees everything below the text?

7 A. Correct.

8 MS. GATTO: So, Ms. Chen, can you highlight that?

9 Q. Again, Ms. Sauer's address doesn't appear on there?

10 A. Correct.

11 MS. GATTO: Ms. Chen, if you can go to the next page.
12 Again if you can highlight from the text down as the user would
13 see it.

14 Q. Ms. Sauer's address doesn't appear there?

15 A. Correct.

16 MS. GATTO: The next page, Ms. Chen. Again, if you
17 can highlight from the text down.

18 Q. Again no address?

19 A. Correct.

20 MS. GATTO: On the next page could you do the same
21 thing, Ms. Chen.

22 Q. I am right, no address?

23 A. Correct.

24 MS. GATTO: The next page.

25 Q. Same question, no address?

D2r6val2

Waters - cross

1 A. Correct.

2 Q. Perhaps for ease, why don't you flip through the document.

3 A. Okay. Yes.

4 Q. Just confirm that there is no address on all of these
5 pages?

6 A. Correct.

7 Q. Mr. Waters, you don't know who has the taxpayer ID No.
8 942642?

9 A. No.

10 Q. You don't know who inputted this information in the charts
11 that the government has showed you?

12 A. Can you -- I don't fully understand the question, ma'am.

13 Q. You don't know who inputted the information. All you know
14 is this information was captured, but you don't know the user?

15 A. Correct.

16 Q. Is the user's identified by that number.

17 A. Right.

18 Q. And you don't know which of these searches in the
19 government's charts were authorized or unauthorized by the
20 police department?

21 A. No, I do not.

22 Q. You are not familiar with police procedures, correct?

23 A. Only as a layman.

24 MS. GATTO: Can I have one moment, your Honor?

25 THE COURT: Yes.

D2r6val2

Waters - cross

1 (Pause)

2 MS. GATTO: I am sorry, just one more question.

3 Q. The system connects to the databases through modem in the
4 trunk?

5 A. When it is lap top controlled computer, it is a modem of
6 sorts but not a modem like you would think you would use on
7 your home computer.

8 Q. It is some device that is in the trunk of the patrol car?

9 A. In the trunk or actually attached to the lap top itself.

10 Q. Is it always connected when you turn the computer on?

11 A. If it is in the trunk, it is always connected.

12 Q. Thank you.

13 MS. GATTO: No further questions.

14 THE COURT: Any redirect?

15 MR. JACKSON: Very briefly.

16 REDIRECT EXAMINATION

17 BY MR. JACKSON:

18 Q. You were asked some questions on cross-examination,
19 Mr. Waters, about whether or not information was returned from
20 Ms. Sauer's address. Do you remember those questions?

21 A. Yes, sir.

22 Q. Now, what we were looking at, do those reflect the person
23 with the 942642 actually accessing on those databases?

24 A. Yes, they do, sir.

25 Q. If there had been information on the address or any other

D2r6val2

Waters - redirect

1 information, would they have been able to access it through
2 those means?

3 A. Yes, sir.

4 MR. JACKSON: No further questions.

5 THE COURT: Anything else?

6 MS. GATTO: No, your Honor.

7 THE COURT: You may step down, Mr. Waters.

8 (Witness excused)

9 THE COURT: The government may call its next witness.

10 MR. JACKSON: Your Honor, before we call the next
11 witness, we would like to ask for a brief conference with your
12 Honor.

13 THE COURT: All right.

14 MR. JACKSON: Perhaps the jury can be excused for a
15 few minutes. There are a few things we need to share with the
16 Court.

17 THE COURT: Ladies and gentlemen, we'll take a brief
18 recess and get started again.

19 THE DEPUTY CLERK: All rise.

20 (Jury excused)

21 (Continued on next page)

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Waters - redirect

1 (In open court; jury not present)

2 THE COURT: Please be seated. I wanted to say that in
3 my copy of 616 B, the last page relates to a 7-2011 Hartigan
4 search. The page is just out of order, but I wanted to make
5 sure that whatever the jury gets in hard copy that that page is
6 not there. It is GV 003830.

7 MR. JACKSON: Thank you, your Honor.

8 MS. GATTO: We have that in our binder, too.

9 MR. JACKSON: Thank you. That is a mistake, your
10 Honor. I don't think it was shown to the jury.

11 THE COURT: It wasn't. It wasn't shown to the jury.
12 I anticipate that the hard copy will go back to the jury and I
13 want to make sure that that page was noted.

14 MR. JACKSON: Excellent, your Honor.

15 There are a few things, your Honor. I apologize for
16 having to raise this issue now, but as your Honor understands
17 this has been a very fast moving process with regard to one of
18 the issues for our next witness. There are two things we want
19 to bring to the Court's attention.

20 First, apart from the argument that this activity
21 predates or constitutes some sort of 404(b) the defense has
22 raised, we believe that based on defense counsel's
23 cross-examination of Ms. Mangan and the other witnesses that
24 were cross-examined who were friends with Mr. Valle, the
25 defense has at minimum opened the door to us asking questions

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Waters - redirect

1 to help us to understand what the relationship was between
2 Ms. Frisca and Mr. Valle.

3 Now, let me be specific about what I am talking about.
4 In the cross Ms. Mangan on page 213 says -- I am sorry. Ms.
5 Gatto says, I am sorry. I wanted to ask you questions about
6 Alissa. So you consider her a friend?

7 THE COURT: I need the transcript. Sorry,
8 Mr. Jackson. I am trying to get the transcript.

9 MR. JACKSON: I am sorry, your Honor.

10 THE COURT: Page 213?

11 MR. JACKSON: Yes, your Honor. Page 213.

12 THE COURT: All right. I am with you.

13 MR. JACKSON: So at this point Ms. Gatto starts by
14 saying she wants to ask questions about Alissa, saying, "You
15 consider her a friend. You socialize with her when you worked
16 together, and they are talking about their 2011 relationship,
17 their relationship in 2011 and prior to the marriage because
18 she says, She knew you were dating Gil and she said she knew
19 that Gil was a police officer and then there are questions
20 where further down on page 214 where she says, Well, you
21 brought her to a police officer Christmas party once. Do you
22 remember that? And there are a number of questions that
23 suggest that they are about the relationship between
24 Ms. Frisca, Mr. Valle and Ms. Mangan throughout the time
25 period, throughout the entire time period that Mr. Valle was

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Waters - redirect

1 dating Ms. Mangan and then into their marriage and about times
2 when they are dropped off or going to the baby shower, etc.

3 So to be honest, your Honor, I don't understand even
4 what the purpose was of some of these where she is inquiring
5 about Ms. Frisca's interest in a particular police officer or
6 something like that. But the real point is they have placed
7 into question what the nature of the relationship was between
8 Mr. Valle, Ms. Mangan and Ms. Frisca. It was highlighted. It
9 was an important point in the cross-examination and it was
10 something that the jury was clearly attuned to.

11 At this point it would be unfair for us to not be able
12 to elicit from Ms. Frisca what to her was a critical incident
13 in terms of her understanding of what the relationship was
14 between her and Mr. Valle. She is going to explain that for
15 her this was a very strange occurrence before we even get to
16 2012, before we get to the point where Mr. Valle is asking that
17 a PBA card -- insisting that his wife give a PBA card to
18 Ms. Frisca. It is important for the jury to understand the
19 nature of the relationship.

20 I think moreover that is opened up by the other lines
21 of cross defense has done with these other women, which
22 suggests that Mr. Valle's relationships with these women is an
23 appropriate subject of inquiry. We've been attempting to
24 understand what the nature of the relationship was with each
25 one of the women for the entire time he is interacting with

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Waters - redirect

1 them. At this point, your Honor, I think regardless it is not
2 a criminal act. So it is not something that has prejudicial
3 impact in that way, but it is important for us to just ask
4 about the few occasions where she saw and actually interacted
5 with Mr. Valle and this is one of the occasions.

6 MS. GATTO: Your Honor, I am sure that the prosecutor
7 is going to elicit from Ms. Frisca that she didn't have a close
8 relationship with Mr. Valle. Our inquiry of the other women
9 who testified regarding their relationship with Mr. Valle I am
10 confused on how that opens the door to questions relating to an
11 incident in April 2011 with Ms. Frisca.

12 THE COURT: I might comment that I didn't understand
13 the relevance of those questions and if you get into those
14 questions again I am going to have to have an understanding of
15 why.

16 MS. GATTO: Which questions?

17 THE COURT: The questions about her interest in police
18 officers. There wasn't an objection on relevance grounds.
19 There was an objection at one point of hearsay. It wasn't
20 hearsay because it wasn't being offered for the truth, but I
21 didn't understand the relevance of that line of questioning.
22 So I am telling you that on cross-examination if you intend to
23 get into that, we're going to have to have a conversation
24 beforehand so I understand what the relevance of that is.

25 The problem as I see it with respect to the April 2011

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Waters - redirect

1 incident is that the government wants to use that incident to
2 suggest that Mr. Valle was surveilling Ms. Frisca. I indicated
3 the missing link from my perspective is the absence of evidence
4 that he was interested at that time in kidnapping her. If
5 there had been a record comparable to the one that exists for
6 Sauer and Nobel that would be one thing, but there isn't. What
7 I have before me is simply that the first reference to Frisca
8 is in February of 2012 and we're talking about April 2011,
9 which is approximately 10 months before and it seemed too
10 remote to me.

11 So, Mr. Jackson, my concern about the incident is that
12 we're asking the jury to speculate. You want them to draw on
13 certain information from that encounter and we don't have
14 enough information in my judgment for the jury to draw any
15 inference about that encounter.

16 MR. JACKSON: Judge, I think there is an appropriate
17 response to that, and I have another thing that I have to show
18 the Court. But the first response is that we're not going to
19 be making arguments when we elicit this. The question that
20 we're going to be asking is about what the incidents were where
21 she actually saw Mr. Valle. There is no rule of evidence that
22 leads to us reasonably excluding an occasion on which one of
23 the handful of occasions which she saw Mr. Valle throughout
24 the entire time that she knew them. Then one of the core
25 issues in this case is what was the relationship between

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Waters - redirect

1 Mr. Valle and these women and is it reasonable to believe that
2 based on the nature of the relationship Mr. Valle would engage
3 in this conduct only for fantasy's sake. We have to understand
4 the nature of the relationship. That is why defense counsel
5 with every one of the women has been cross-examining them
6 about --

7 THE COURT: Not to interrupt, Mr. Jackson, but there
8 is no argument here, there is no contention, there is no theory
9 that I am aware of that would suggest that Mr. Valle's
10 relationship with any of these women would explain, justify or
11 otherwise mitigate the conversations over the Internet. In
12 other words, Ms. Gatto's defense here is not that there was
13 something about the relationship between Mr. Valle and these
14 women that makes this noncriminal. As you know it was all just
15 a fantasy.

16 MR. JACKSON: I understand your Honor's point. Our
17 argument is that based on the nature of the relationship that
18 is one of the factors that the jury should take into account in
19 determining whether or not what he is saying is reasonable. I
20 mean, these are women that he had a certain type of
21 relationship with each one. These are not celebrities.

22 THE COURT: I understand that, but his relationship
23 with this particular witness is quite limited.

24 MR. JACKSON: Yes. I think we want to have the jury
25 have a clear picture of the limited nature.

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Waters - redirect

1 THE COURT: I don't think Ms. Gatto is going to be
2 arguing that it wasn't limited. You are not going to be
3 arguing it wasn't limited?

4 MS. GATTO: No.

5 THE COURT: You are going to be arguing it was very
6 limited?

7 MS. GATTO: Right.

8 THE COURT: She was essentially the friend of the
9 wife?

10 MS. GATTO: That's right.

11 MR. JACKSON: Your Honor, we're precluding the witness
12 from talking about one of the few instances she saw him before
13 we get to the question -- it certainly is relevant.

14 THE COURT: How is it relevant, though? Tell me what
15 the relevance of it is.

16 MR. JACKSON: The relevance of it is it helps us to
17 understand he only interacted with this woman on a few
18 occasions. She was a friend.

19 THE COURT: There is already going to be evidence of
20 that. There is already going to be evidence that they only
21 interacted on a very few occasions and when they did, it was
22 through the wife. And so the question is: What is the
23 relevance of this encounter in April of 2011. The only
24 relevance that I can see is that it suggests that he was
25 surveilling her in some fashion, stalking her perhaps. My

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Waters - redirect

1 concern is that we don't have an adequate foundation for the
2 jury to draw that inference. So that is my concern.

3 MR. JACKSON: Let me respond to that, your Honor.
4 We've been responding to this this morning. We immediately
5 contacted Mr. Flatly and asked him to look at the hard drives
6 for anything that -- the hard drives which were produced as
7 your Honor knows in discovery to see if there is anything else
8 that we can say about the data there that is telling on this
9 particular issue and what we've been informed is that there is
10 a document. We've identified a document called Government
11 Exhibit 442, which is a list of women that Mr. Valle sent
12 himself in September of 2012.

13 THE COURT: All right.

14 MR. JACKSON: Now, at the bottom of this list,
15 Mr. Valle has a number. Obviously a number of these women,
16 including Ms. Frisca --

17 THE COURT: I see her name.

18 MR. JACKSON: -- are identified as targets of the
19 conspiracy and there are a number of strange terms at the
20 bottom that Mr. Valle listed.

21 THE COURT: Your last point that these women are
22 identified as targets, I don't see that on the first page. Is
23 that someplace else?

24 MR. JACKSON: No. No. No. I mean in other
25 conversations he identifies these women as targets.

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Waters - redirect

1 THE COURT: All right.

2 MR. JACKSON: Let me explain the relevance of what
3 Mr. Flatley was able to do. We introduce this exhibit. As
4 your Honor knows, there are many things on Mr. Valle's hard
5 drive that we're not introduced. It is a small section that
6 we're introducing for convenience. What Mr. Flatley was able
7 to determine is that Mr. Valle created a precursor of this list
8 with the name Alissa on it in June of 2011. That will be the
9 nature of his testimony.

10 In response to your Honor's concerns about this
11 particular issue, I think that that proximity shows that's a
12 very short amount of time after this incident occurs with
13 Ms. Frisca. I think that combined with the other information
14 that we have about the facts that in 2011 Mr. Valle's already
15 deeply in his DFN chats and he is engaging in his accessing of
16 the NYPD systems for no purpose that we've been able to
17 identify other than identifying personal information about
18 these women and now we have a document similar to this one,
19 which was created in June of 2011. We think that that is the
20 piece of evidence that advances this to a point we should be
21 able to simply ask the question without putting any
22 characterization on it and then when we get to the end of the
23 case, your Honor can make a determination as to whether there
24 are arguments that should be limited. I think we should be
25 able to ask this question based on this proffer and simply have

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Waters - redirect

1 a record of what the interactions were between Ms. Frisca and
2 Mr. Valle.

3 THE COURT: Let me say that I am not happy with the
4 way the information has been dribbled out in this case and it
5 creates all kind of problems. There has been a pattern frankly
6 on both sides of last-minute objections, last-minute
7 revelations that makes it very difficult to conduct these
8 proceedings in an organized, rational way.

9 Now, you have known for a very long this particular
10 incident existed. You presumably knew that you were interested
11 in introducing it. You knew there was an issue about it
12 because of the date and now you are telling me after I have
13 ruled on the issue that there is actually another piece of
14 evidence that you think is probative. Well, why didn't you
15 collect the evidence before?

16 MR. JACKSON: Well, your Honor, I definitely
17 appreciate your Honor's concern. First of all, we apologize
18 for the dribble of information, but there were motions in
19 limine dates. This was not raised in a motion in limine. It
20 was raised two days ago. I have not left this building in the
21 last two days. I have spent the entire night responding to the
22 initial briefing, the initial question creating briefing the
23 day it was raised on the first day of trial. Mr. Flatley
24 wasn't available when we left court at 8:00 last night for us
25 to do another look at this after we were arguing this issue.

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Waters - redirect

1 We have been in court all day dealing with witnesses.

2 So, your Honor, I appreciate the Court's concern and I
3 would ask the Court's indulgence on this issue. We have tried
4 as hard as we can to make sure that the Court is aware of every
5 issue. That is why we produced all of our exhibits well in
6 advance of trial. We produced them more than a week before the
7 start of trial. We produced our 3500 material well in advance
8 of trial. We filed all of our motions in limine on time. We
9 have not moved in limine on anything, any line of questioning
10 since the case began. The defense has filed additional
11 challenges to every one of our witnesses since we started. I
12 simply have been trying to deal with Mr. Waters' issue in the
13 wee hours of the night last night and it is complicated, your
14 Honor.

15 So with regard to this, I think that we had made a
16 good faith effort at each stage to keep the Court informed and
17 now we're offering what I think is a responsive piece of
18 information. I think that based on the defense's opening the
19 door, we would ask the Court to reconsider to allow us to
20 simply ask the question which establishes what the relationship
21 was and then we can reserve for later at the end the question
22 of whether or not there are arguments that should be limited on
23 that basis.

24 THE COURT: Do you have the document that you said was
25 created in June of 2011?

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Waters - redirect

1 MR. JACKSON: We're bringing it over, your Honor, from
2 the FBI from 26 Federal Plaza.

3 THE COURT: I need to see the document.

4 MS. GATTO: As do we, your Honor, because we don't
5 know that document.

6 Just if I can respond briefly. I don't mean to
7 belabor the point, but I do think that this is a problem, this
8 particular instance, this April 2011 is a problem that the
9 government created. I know the Court has ruled that this is
10 not a 404(b) issue, but typically this would have been briefed
11 in a 404(b) manner.

12 Regardless, your Honor, we'll look at the document. I
13 don't think it changes the calculus that they charge in June
14 2011 there is a document with a list of many names on it, but
15 we'll obviously look at the document if they have the document.
16 We have to go find it on the computer and do our forensics.
17 That is why these things should be brought to light early. It
18 wasn't. I don't see that even if there is an e-mail that looks
19 like this with a list of 100 names how that changes it. I also
20 completely disagree with Mr. Jackson that the defense has in
21 any way opened the door to this.

22 THE COURT: Let's talk about that for a minute. You
23 have gotten into the contacts between Mr. Valle and, for
24 example, Ms. Frisca. There was questioning about, for example,
25 the Christmas party and the fact that Ms. Frisca was interested

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Waters - redirect

1 in going and the fact that there was some police officer there
2 who was "hitting on her" and there were other questions along
3 those lines. I am not saying this to criticize you, but you
4 certainly have attempted to bring out the nature of the
5 relationship between Mr. Valle and Ms. Frisca. There is no
6 question of that. What Mr. Jackson is saying is, Well, if the
7 Christmas party is relevant, then how can it be that this is in
8 April 2011, which involves direct contract between Mr. Valle
9 and Ms. Frisca, how could that not be relevant?

10 MS. GATTO: Your Honor, there are two pieces of
11 evidence that the government seeks to elicit from Mr. Frisca.
12 One was the April 2011 that the Court has ruled is
13 inadmissible. The other is the issue about the PBA card. The
14 government will argue that the giving of the PBA card from
15 Mr. Valle to Ms. Mangan to Ms. Frisca is very creepy and weird
16 and some indication of malcontent on Mr. Valle's part.

17 I was trying to elicit that Ms. Frisca wanted a PBA
18 card, that she has been intrigued by police officers and thinks
19 having a PBA card is cool for lack of better words. I think
20 that is totally appropriate since the government is admitting
21 evidence we have not seen. It seems based on arguments earlier
22 this morning that the PBA cards are at the center of the
23 government's case. They are going to ask the jury to infer
24 that the fact that Mr. Valle gave PBA cards to friends and his
25 wife's friends that he was engaged in some giant ruse to get

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Waters - redirect

1 close to them. I think it is totally appropriate especially
2 when the government is willing to ask those kinds of questions.
3 I don't think that that opens the door to an instance in
4 April 2011 that has nothing to do with what we're talking about
5 right now.

6 Yes, of course I have gotten into the relationship,
7 but on this end we're not disputing that Ms. Frisca and
8 Mr. Valle are not friends. They only know each other through
9 Ms. Mangan. My questions to Ms. Sauer and Ms. Hartigan is
10 different because they have a very different relationship.
11 Just as it is appropriate for me to ask Ms. Sauer when you got
12 the PBA card you weren't weirded out because of it because of
13 their nature of the relationship, I should be able to explore
14 the feelings around Ms. Frisca when she received the PBA card
15 from Ms. Mangan.

16 THE COURT: All I will say about the Christmas party
17 in my judgment doesn't have anything to do with the PBA
18 incident and as I said I was really mystified as to what the
19 relevance was. I draw from what you said that you want to be
20 able to argue that Ms. Frisca has some kind of interest in
21 police officers.

22 MS. GATTO: Your Honor, that is a minor point. I
23 didn't get the answers that I anticipated from Ms. Mangan, but
24 I am entitled to explore the surrounding circumstances of the
25 PBA card. If in deed Ms. Mangan said, Yes, Ms. Frisca loves

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Waters - redirect

1 cops and she would be tickled pink if she got a PBA card, that
2 would make the PBA card incident which we don't see on this
3 side as very odd thing even less odd. So I understand
4 sometimes questions are asked and the answers are not what are
5 anticipated so the Court or even the prosecutor doesn't
6 understand why we're asking them, but it is one or two
7 questions. I don't see how those questions related to how
8 Ms. Frisca would feel about getting a PBA card opened the door
9 to an April 2011 incident.

10 THE COURT: In any event, the issue for me at this
11 point is that the government has said there is some document
12 that supports its argument or that would support an argument
13 that Mr. Valle was considering Ms. Frisca as a kidnap target in
14 June of 2011. I need to see the document. I am not going to
15 permit examination on this issue until I have the document. So
16 if you are in a situation where Ms. Frisca is your next
17 witness, I am not going to allow examination on the subject.
18 You are welcome to recall the agent and continue with that and
19 take up the issue once we have the document or you can proceed
20 with Ms. Frisca. It's up to you. The nature of the document
21 is going to be absolutely critical to determine what inferences
22 can be drawn from it. I am not going to make any ruling on the
23 subject until I have the document in front of me.

24 MR. JACKSON: Absolutely, your Honor. Our preference
25 would be to either continue with Mr. Walsh for a bit and then

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Waters - redirect

1 at lunch we can secure the document and get it to your Honor or
2 to take an early lunch and secure the document, get it to your
3 Honor and then we deal with Ms. Frisca as soon as we finish,
4 whichever way your Honor feels is appropriate.

5 THE COURT: I cannot take an early lunch today. I am
6 sitting on the Court of Appeals at 1:30. So actually I need to
7 take the jury up until 1:00 or 1:15 particularly given that we
8 had such a late start this morning I am also reluctant to break
9 early for that reason.

10 Also, with respect to Agent Walsh, if you are going to
11 recall him at this point, we're going to have to finish his
12 testimony. We cannot keep jockeying back and forth between
13 witnesses. If your decision is that you want to make an
14 argument to me to get this incident in and you want to show me
15 the document in support of that incident, then we're not going
16 to be able to take Ms. Frisca now. You will have to put the
17 agent back on. If you put Agent Walsh on, we're going to
18 finish him and then we'll take up the Frisca matter. It sounds
19 like that is the approach you want to take.

20 MR. JACKSON: Yes, your Honor.

21 THE COURT: Let's get Agent Walsh back in here and
22 let's get the jury in here on we're going to go to about 1:15.

23 MR. JACKSON: Your Honor, can you give us five minutes
24 to try to secure Agent Walsh?

25 THE COURT: Yes.

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Waters - redirect

1 (Recess)

2 THE COURT: Are we prepared to proceed?

3 MR. JACKSON: Yes, your Honor.

4 MS. WAXMAN: Your Honor, the government calls Agent
5 Walsh at this time.

6 THE DEPUTY CLERK: Are you ready for the jury?

7 THE COURT: Yes.

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Waters - redirect

1 (In open court; jury present)

2 THE COURT: Please be seated.

3 Ladies and gentlemen, we're going to be resuming the
4 testimony of Agent Walsh. I also wanted to tell you that we'll
5 be going a little bit later today because we started later
6 today. So my intention is to take us up to 1:15 and then we'll
7 break for lunch at that point.

8 Agent Walsh, you remain under oath.

9 You may proceed.

10 COREY WALSH,

11 DIRECT EXAMINATION (Cont'd)

12 BY MS. WAXMAN:

13 Q. Agent Walsh, just to remind the jury where we left off, we
14 were reviewing e-mail communications between an MHa152 and an
15 individual called Moody Blues.

16 A. Yes, ma'am.

17 Q. In the investigation did the FBI discover where Moody Blues
18 lives?

19 A. Yes, ma'am.

20 Q. Where is that?

21 A. The IP address is traced back to the United kingdom.

22 Q. Can you slow down a little bit?

23 A. Yes. His IP address is traced the back to the town of
24 Kent, which is outside of London, United Kingdom.

25 Q. Directing your attention now, Agent Walsh, to Government

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Walsh - direct

1 Exhibit 415, which was admitted yesterday into evidence.

2 MS. WAXMAN: Your Honor, may we publish this exhibit
3 to the jury?

4 THE COURT: Yes.

5 Q. What are we looking at, Agent Walsh?

6 A. We're looking at a chat conversation between Moody Blues
7 and MHal52.

8 Q. What is the date of that conversation?

9 A. September 8th, 2012.

10 Q. Directing your attention to MHal52 at 4:10:57, can you just
11 read from there for the next few lines down?

12 A. MHal52, I closed out my DFN account.

13 Meatmarketman, Works all the time at a local takeaway.
14 Why?

15 MHal52, Less chance of getting caught I figure.

16 Meatmarketman, LOL.

17 Q. Agent Walsh, in your investigation did you determine what
18 DFN is or means?

19 A. I believe DFN stands for the Darkfetishnetwork.

20 Q. Did you confirm in your investigation that Officer Valle
21 closed his DFN account around this time?

22 A. Yes, ma'am.

23 Q. Yesterday, Agent Walsh, you testified that you reviewed
24 communications between Officer Valle and an individual known as
25 Ali Khan?

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Walsh - direct

1 A. Yes, ma'am.

2 Q. What method did Officer Valle and Ali Khan use to
3 communicate?

4 A. The chats.

5 Q. Like the chats that we've been looking at for Moody Blues?

6 A. Yes.

7 Q. What were these chats about, the nature of the chats?

8 A. Kidnapping, killing and eating young women.

9 Q. Did Ali Khan and Officer Valle identify women who they
10 wanted to kidnap?

11 A. Yes, ma'am.

12 Q. Who were these women? Who did these women include?

13 A. Kathleen Mangan, Andria Nobel.

14 Q. Over what period of time did Officer Valle and Ali Khan
15 communicate through electronic chats?

16 A. Early 2012 through late summer.

17 Q. I am going to ask you to take a look at what has been
18 received into evidence as Government Exhibit 417, 4-1-7.

19 MS. WAXMAN: Your Honor, may we publish that exhibit?

20 THE COURT: Yes.

21 Q. Agent Walsh, can you tell us what we're looking at?

22 A. This is a chat conversation between Ali Khan
23 Alisherkhan79@Yahoo.com and MHa152@yahoo.com.

24 Q. What is the date of this conversation?

25 A. January 23rd, 2012.

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Walsh - direct

1 Q. If you can just start reading from the top.

2 A. Alisherkhan, I hope to share my ideas with you, which I am
3 doing for the very first time.

4 MHal52 50, Yes. Sounds good. Let's talk about
5 getting you a girl -- getting a girl to you.

6 THE COURT: You have to read it exactly as it appears
7 in the transcript.

8 THE WITNESS: Yes, your Honor.

9 A. Alisherkhan, As I said, I would love to slaughter a girl
10 and make her meat. I killed a few goats to see what happened
11 to the animal and how it is done. I found it easy. It is just
12 the use some arm power to lay it down, tie it a little and cut
13 its throat. Girls or women are not cooperative like animals.

14 MHal52, Right. So she would have to be tied up of
15 course.

16 Alisherkhan, If I get a middle-aged or adult woman or
17 a teenaged girl, I can slaughter her, but from where to get
18 this animal?

19 Alisherkhan, Are you there?

20 MHal52, Yes.

21 Alisherkhan, So?

22 MHal52, What body type do you like? I am trying to
23 pick out a girl who I can send over.

24 Alisherkhan, How you can send her to me if she will
25 know what I will do with her? By the way, young women will be

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Walsh - direct

1 good. Not big and fat ones. But sometimes in winters fat
2 animals are also consumed.

3 MHal52, I can talk my girlfriend into going to India
4 for a trip and then we will meet up.

5 Q. Stopping you there for a moment, Agent Walsh, in the course
6 of your investigation, did you discover whether Officer Valle
7 had a girlfriend in or about January 2012?

8 A. Yes, ma'am.

9 Q. Who was his girlfriend at that time?

10 A. Kathleen Mangan.

11 Q. Thanks. If you can just continue.

12 A. Alisherkhan, would you? Is she good?

13 MHal52, She is 25 years old.

14 Alisherkhan, if you bring her here, I promise I will
15 make a good meal for you. Wow, she is young.

16 MHal52, She is five foot seven, around 140 pounds.

17 Alisherkhan, I promise I will kill her as humanly as
18 possible has she has spent some time with you so she is ideal,
19 man. I can't resist her meat. She is yuck and I can wrestle
20 her to lay her down and cut her up.

21 MHal52, it is all right you don't have to worry about
22 humane.

23 Alisherkhan, By the way, I am 35 years old. Will you
24 participate in the slaughtering process with me?

25 MHal52, Absolutely. I have longed to butcher and cook

D2r6val2

Walsh - direct

1 female meat.

2 Q. Stopping you there for a moment, Agent Walsh. In the
3 course of your investigation did you identify where Alisherkhan
4 lives?

5 A. Yes, ma'am.

6 Q. Where is that?

7 A. Pakistan.

8 Q. How did you learn that he lives in Pakistan?

9 A. Through tracing the Internet protocol IP address from the
10 e-mails and chats.

11 Q. If we can just go to the next page of that chat. If we can
12 begin where it says Alisherkhan at 5:36.

13 I am sorry. Go to the next page of that chat
14 beginning at 5:58.

15 A. Alisherkhan, Listen, don't let her tell her parents, know
16 that she is coming with you anywhere.

17 MHal52, That will be hard. She talks to them every
18 day.

19 Alisherkhan, So what is the call, man? I say we don't
20 want to go to jail.

21 MHal52, will you be able to come here? I have a place
22 in the middle of nowhere with plenty of space.

23 Alisherkhan, I can but where do you live, buddy? Do
24 you have some more pics of her?

25 MHal52, We can set up an apparatus and kidnap another

D2r6val2

Walsh - direct

1 girl out of nowhere so I am not a suspect.

2 Alisherkhan, I need to seek travel permission from
3 family as I am looking after shops here.

4 MHal52, I am in Pennsylvania.

5 Alisherkhan, Buddy, your girl is too good and after
6 seeing her I think she deserves to be eaten.

7 MHal52, I have some others who I can easily abduct.
8 How do you like her?

9 Alisherkhan, Wow. U.S. travel laws are difficult,
10 man. How can I come? If you manage to reach and we can see if
11 it will be your girlfriend or dirty brown meat of Pakistani or
12 Indian. Her second photo shows her pink face telling that she
13 is very healthy and American meat has its own taste. She is
14 young so it is more than good.

15 MHal52, All right. So you are fixated on Kathleen?

16 Alisherkhan, Fixated, yes. You can say. We can keep
17 on sharing until we come up with a plan. I got her photo in
18 the pink dress. Her breasts are good and arms are good with
19 meat. She is not skinny. It will be a lot of expenses if I
20 travel to U.S., but your girl is worth it. Hey, what will you
21 do when she is gone?

22 MHal52, She is a sweet girl. I like her a lot, but I
23 want to move on. I am going to send a few more pics of her.

24 AlisherKhan, You say, well, sweet girl. Send me more.
25 Do you have a photo that shows her body and meat without or

D2r6val2

Walsh - direct

1 less dress. I want to analyze her meat.

2 MHal52, I sent you a bikini picture, but it is only
3 the top.

4 (Continued on next page)

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D2RUVAL3

Walsh - direct

1 Q. Agent Walsh, during your investigation, did you discover on
2 a computer used by Mr. Valle a picture of Ms. Mangan dressed in
3 a bikini?

4 A. Yes, ma'am.

5 Q. You can continue, please.

6 A. Alisherkhan: "Can you feel her ribs under her breasts or
7 they are all covered in thick skin, has she broad back. Bikini
8 is good enough."

9 Mhal52: "It is set."

10 Q. Can you go to the next page of that chat.

11 A. Mhal52: "She has some meat on her. If it's going to be
12 her, I'll just come to you. I will send you our hotel. And we
13 will get her tied up and gagged."

14 Alisherkhan: "Can you catch her Adam's apple or hold
15 her windpipe in throat. I think you can as I see her neck
16 perfect for soup."

17 Mhal52: "I want to eat some leg meat."

18 Alisherkhan: "I will take my car across the border of
19 Pakistan. We can meet in Rawalpindi in a hotel and from there
20 I will take you to my home. You can tell her I am your old
21 friend. When we reach home, we will gag her than and take her
22 to basement. I have a servant there and few people, whom I
23 will send on leave for two days."

24 Q. Do you know where Rawalpindi is?

25 A. It is in Pakistan.

D2RUVAL3

Walsh - direct

1 Q. You can continue.

2 A. Alisherkhan: "Meat on leg is only meat that is perfect.
3 Send me a bikini pic."

4 Mhal52: "It's there 6th picture.

5 Alisherkhan: "Didn't get it. I will send you her
6 meat analysis report as we do on our goats."

7 Mhal52: "OK."

8 Alisherkhan: "Perfect. Her hips are ideal and leg
9 meat is classy."

10 Mhal52: "Good."

11 Alisherkhan: "Her every part is wonderful. I can
12 wait to have her here under our knife."

13 "Mhal52: "We can have some fun first."

14 Alisherkhan: "She has no muscles and seems weak. So
15 we can easily handle her."

16 Mhal52: "Tie her up and rape her."

17 Alisherkhan: "Sure, wasting such a good girl will not
18 be good. Have you ever done anal on her. If not, now is your
19 chance."

20 Mhal52: "No, I haven't."

21 Alisherkhan: "So tear her anus apart before she is
22 cut up."

23 Mhal52: "Hell, yes."

24 Alisherkhan: "I forgot to ask about this. Make her
25 shave her hair in pubic area. We need a clean vagina to carve

D2RUVAL3

Walsh - direct

1 it."

2 Mhal52: "Yeah. She keeps it neat. You will love
3 her, the look of terror in her eyes.

4 Alisherkhan: "I got her photo with her tongue out,
5 when her throat will be cut her tongue will droop out like
6 this. I have seen this in animals."

7 Mhal52: "Nice."

8 MS. WAXMAN: If we can go to the next page of that
9 exhibit.

10 Q. Agent Walsh, can you continue reading?

11 A. Mhal52: "Would the feet be edible?"

12 Alisherkhan: "Yes. Feet soup will be good and
13 nutritious, even her tongue can be eaten."

14 Mhal52: "Excellent."

15 Alisherkhan: "She is very precious. We won't waste
16 any of her thing."

17 Mhal52: "Good. I want to eat all of her.

18 Alisherkhan: "We can make nice chops from her ribs,
19 even I want to keep her head. If you don't mind, will you
20 allow me for one thing with her, if I ask. If you don't agree
21 it is OK."

22 Mhal52: "Ask.

23 Alisherkhan: "I would love to fuck her throat. I
24 mean a good blowjob."

25 Mhal52: "Fine with me. She hates that. It would

D2RUVAL3

Walsh - direct

1 humiliate her. Do you have something to keep her mouth open?
2 Otherwise she will bite.

3 Alisherkhan: " OK, you. Than can I have an anal
4 than?

5 Mhal52: "Definitely. We will take turns with her.
6 We'll tie her down spread eagle."

7 Alisherkhan: "Thanks. I would love that. I think
8 there is ceiling fan in the store in Pakistan home. I can get
9 it removed to use the hook for slaughter."

10 Mhal52: " OK."

11 Alisherkhan: "She is not that big and we can even cut
12 her on the floor. The floor is made of marble."

13 Mhal52: "Whatever is easiest."

14 Alisherkhan: "We normally cut animals in Muslim way.
15 Do you know the Muslim way?"

16 Q. During your investigation did you discover what Ali Khan
17 does for a living?

18 A. Yes.

19 Q. What is that?

20 A. He claims to be a butcher.

21 MR. BAUM: Objection. Hearsay. Source of the
22 information.

23 THE COURT: Could you bring out the source of the
24 agent's information.

25 Q. Agent, what is the source of your information?

D2RUVAL3

Walsh - direct

1 A. Internet chat, he says that he is a butcher.

2 MS. WAXMAN: Then I withdraw the question.

3 THE COURT: Withdrawn.

4 Go ahead.

5 Q. We can continue with Mhal52 at 6:37.

6 A. Mhal52: "But I just love the thought of stringing her
7 upside down. No."

8 Alisherkhan: "It is called 'zabab' and you can see
9 'eid azha' videos on YouTube. OK, we can hang her. Gutting
10 will be easier that way."

11 Mhal52: "Awesome."

12 Alisherkhan: "What if she agrees for this and we
13 don't have to force her. Maybe she has a reverse fantasy like
14 us, maybe not."

15 Mhal52: "Feet soup as an appetizer, and I'll take a
16 hunk of thigh meat as my entree."

17 MS. WAXMAN: If we can go to the next page, and the
18 next page after that.

19 Q. Directing your attention to Ali Khan at 6:41:09. Can you
20 begin reading there.

21 A. Alisherkhan: "Throat has four things. Windpipe or
22 trachea, esophagus or food pipe and two jugular veins. Our aim
23 is to cut three out of these four. The slit is quick and we
24 leave spinal cord intact to let heart beat so she throws a lot
25 of blood. People say it's humane."

D2RUVAL3

Walsh - direct

1 Mhal52: "OK."

2 Alisherkhan: "No leftovers of course. We are too
3 hungry to share one nasty thing. Some animals shit when the
4 knife cuts the throat. I think due to pain. Don't let her eat
5 much before slaughter or we will have to clean a lot.

6 Mhal52: "OK. Will do."

7 Alisherkhan: "Is she a vegetarian?"

8 Mhal52: "Yes. She is."

9 Alisherkhan: "OK. Then her meat quality be slightly
10 less. She will taste like a tasty goat."

11 Mhal52: "Poor girl. All of a sudden she has around a
12 month to live."

13 Alisherkhan: "Do you have any other method of
14 slaughter. I told you the way we do it. Blood must be drained
15 as it is said here, as blood carries germs.

16 Mhal52: "No, I really don't. I've never butchered."

17 Alisherkhan: "How much she has time to live depends
18 upon you."

19 Mhal52: "She is a teacher and has a week off starting
20 February 20. Perfect time for a vacation.

21 Alisherkhan: "I will buy some nice knives for this
22 occasion, new ones. Make sure she is not missed. Bring her to
23 Pakistan. It's easy for me to get there as we import sheep
24 from a city called Lahore. But bring her to Rawalpindi."

25 Mhal52: "OK."

D2RUVAL3

Walsh - direct

1 Alisherkhan: "If there is a problem, and you were
2 unable to bring her here, you can do that there, but I will
3 miss it. I don't want to miss it."

4 Q. Do you know where Lahore is?

5 A. Yes.

6 Q. Where is it?

7 A. It is also in Pakistan.

8 Q. You can continue with that page.

9 A. Mhal52: " I will absolutely do my best.

10 Alisherkhan: "Send he some pics as I am saving it in
11 a separate folder."

12 Mhal52: "I sent all I have."

13 MS. WAXMAN: Ms. Chen, can you go to the next page of
14 the exhibit.

15 Q. Agent Walsh, you can continue with that conversation.

16 A. Alisherkhan: " OK. I have saved them. Thanks. Let me
17 ask a question. If I get girlfriend here, I will slaughter her
18 myself here and never let anyone know. Didn't you get idea of
19 doing her yourselves?"

20 Mhal52: "Too much work for me to do on my own and I
21 have no experience butchering. I would actually love to cook a
22 girl alive over an open fire, but just cook her until she dies.
23 Then take her down, properly butcher her and cook the meat, the
24 live cooking is just for my entertainment and for her
25 suffering."

D2RUVAL3

Walsh - direct

1 Alisherkhan: "What if I guide you on webcam. I got
2 her picture in red dress with stretched neck. And she says
3 'cut my throat, I'm ready'? he, he, he, he."

4 Mhal52: "Ha, ha. I've had other girls who I want to
5 cook more than Kathleen."

6 Alisherkhan: "the Most easiest thing in life is
7 slaughtering. When I killed my first goat, my workers said
8 it's easy. So it was. But the most important thing, never get
9 caught."

10 Mhal52: "Of course. If I did it here, I can easily
11 get away with it."

12 Q. If I can now ask you to look at Government Exhibit 418.

13 MS. WAXMAN: Your Honor, may we publish that exhibit?

14 THE COURT: Yes.

15 Q. If we can go to the second page of that exhibit. Directing
16 your attention your attention, Agent Walsh, to Alisherkhan at
17 8:25.

18 A. Alisherkhan: "Who are these girls any ways, buddy. You
19 have a lot of them."

20 Mhal52: "Friends of mine."

21 Alisherkhan: "You are lucky. Get some courage man.
22 I am drooling for their meat but I am not happy with you. I
23 think you are not for real, otherwise they would not be living.
24 You are not really interested in slaughtering them."

25 Mhal52: "Maybe one day."

D2RUVAL3

Walsh - direct

1 Alisherkhan: "You are wasting time, buddy. I am for
2 real, not fantasy."

3 Mhal52: "I am just afraid of getting caught. If I
4 were guaranteed to get away with it, I would do it."

5 Alisherkhan: " OK. Let me tell you. Can you please
6 close these photos. It makes me hot. I can guarantee. I have
7 done it before. I am doing it this month and will always do
8 it. You need a plan and in a little detail."

9 Mhal52: " I am a little different, though. I am a
10 little more sadistic. I would want her to suffer. I would
11 want to see her suffer. I want to tie her up to a metal frame
12 and slowly roast her until she dies."

13 Q. You can go to the next page of the exhibit and the page
14 after that.

15 Directing your attention, Agent Walsh to Alisherkhan
16 at page 3707.

17 A. Alisherkhan: " OK. Let me ask you one last time before I
18 tell you more. Are you really, really into it? Are you ready
19 to slaughter one being safe?"

20 Mhal52: "Yes."

21 Alisherkhan: "Are you sure?"

22 Mhal52: "Definitely."

23 Alisherkhan: "So when you think you can do it? How
24 soon can you gather courage?"

25 Mhal52: "I don't know."

D2RUVAL3

Walsh - direct

1 Alisherkhan: "Get your mind ready. I will guide you
2 rest."

3 Mhal52: "OK."

4 Alisherkhan: "what time you have free with you in
5 daytime? What do you do to earn?"

6 Mhal52: "Typical office job. I am home by 6 p.m."

7 Alisherkhan: "Do you have free Saturday and Sunday?"

8 Mhal52: "Yes."

9 Alisherkhan: "Whyan you do it on weekend?"

10 Mhal52: "Yeah."

11 Alisherkhan: "Get your mind ready and choose your
12 first victim. Mail me on, leave me message on Yahoo Messenger.
13 I will help you out. You won't believe how easy it is. It is
14 damn, damn easy."

15 Q. Now directing your attention to Government Exhibit 419.

16 MS. WAXMAN: Your Honor, may we publish that exhibit?

17 THE COURT: Yes.

18 Q. If you can start, Agent Walsh, reading from Alisherkhan --
19 what does 16:36 mean?

20 A. That is the UTC time stamp.

21 Q. If you could just start reading from there.

22 A. "Hey, Hal. I am watching few videos to practice my
23 slaughter. See this."

24 And that's when it went to the YouTube video.

25 Q. In your investigation did you look at that YouTube video?

D2RUVAL3

Walsh - direct

1 A. I did, ma'am.

2 Q. Generally what is it?

3 A. Several men holding a live goat down to the ground,
4 splitting the throat with a knife and watching the blood rush
5 out.

6 MS. WAXMAN: Your Honor, may I have a moment, please?

7 THE COURT: Yes.

8 Q. I am now directing your attention your attention, Agent
9 Walsh, to Government Exhibit 421.

10 MS. WAXMAN: Can I publish that, your Honor?

11 THE COURT: Yes.

12 Q. What are we looking at there, Agent Walsh?

13 A. It is another chat.

14 Q. Between who?

15 A. Ali Khan and Mhal52.

16 Q. What is the date of that chat?

17 A. February 9, 2012.

18 Q. You can just start reading from the top.

19 A. Alisherkhan: "Hi buddy."

20 Mhal52: "Hey."

21 Alisherkhan: "Nice to see you again."

22 Mhal52: "Likewise. I have my victim picked out.

23 Alisherkhan: "Good. Great. Nice, so did you plan.

24 Mhal52: "Should be very easy to kidnap her right from
25 home."

D2RUVAL3

Walsh - direct

1 Alisherkhan: "Please see you plan every detail from
2 drugs to dismembering and than throwing away what you do not
3 need."

4 Mhal52: "Yeah, I was actually able to get a stun gun.
5 I'm gonna zap the bitch in her home, tie her up, pack her in a
6 large suitcase and get her to my car."

7 Alisherkhan: "Not a good idea. You might get
8 attention of her neighbors, bro."

9 Mhal52: " I know her, they have seen me before."

10 Alisherkhan: "Use a blanket to wrap her after she
11 faints. Take a drink to her with drugs in it."

12 Mhal52: "Yeah."

13 Alisherkhan: "How old is she?"

14 Mhal52: "26, and she won't turn 27."

15 Alisherkhan: "Ideal meat."

16 Mhal52: "I can't send you pics."

17 Alisherkhan: "Will you finish her by throat slit or
18 any other way?"

19 Mhal52: "My mouth is watering."

20 Alisherkhan: "I tell you, it will be a great
21 experience."

22 Mhal52: "I have a question actually would it be
23 remotely possible to stick her in the oven while she is alive
24 at a relatively low heat, maybe 160 to 170 just for my own
25 entertainment and for her suffering. Once she dies, I will

D2RUVAL3

Walsh - direct

1 pull her out and then properly butcher her. I don't think she
2 will last more than 20 min so her body won't be ruined."

3 Alisherkhan: "I am banned from DFN due to my search
4 for real women willing for slaughter or people willing to send
5 their women to me."

6 Mhal52: " oh, damn."

7 Q. Go to the next page and directing your attention to Mhal at
8 10:39.

9 A. Mhal52: "I want her to experience as much pain as humanly
10 possible through her ordeal. Andria is her name. Her hands
11 and feet will be tied very tight in the oven. She won't be
12 going anywhere. I wish you could see some pictures."

13 Alisherkhan: "I wish if I could see her. You can try
14 to cook her alive."

15 Mhal52: "Only until she dies. That's it."

16 Alisherkhan: "When will you be ready for this?"

17 Mhal52: "Soon."

18 Alisherkhan: "She should die for our meal."

19 Mhal52: "I can't get her out there."

20 Alisherkhan: "I hope you do it soon."

21 Mhal52: "Me too. I get hungry every time I think of
22 her."

23 Alisherkhan: "Her meat must be delicious."

24 Q. Agent Walsh, directing your attention to Government Exhibit
25 422.

D2RUVAL3

Walsh - direct

1 MS. WAXMAN: Your Honor, may we publish this exhibit?

2 THE COURT: Yes.

3 Q. Directing your attention, Agent Walsh, to Ali Khan at
4 18:26?

5 A. Alisherkhan: "Give me a minute. Let me receive some mail
6 at my doorsteps. Meanwhile, send some pics."

7 Alisherkhan: "Wow, man. She is cool."

8 Mhal52: "That's my Andria."

9 Alisherkhan: "Great bust."

10 Mhal52: "Oh, yes."

11 Alisherkhan: "Andria has good meat on her arms as
12 well."

13 Q. Agent Walsh, in the course of your investigation, including
14 your review of a computer used by Officer Valle, did you
15 discover photographs of an individual named Andria?

16 A. Yes, ma'am.

17 Q. Did you identify Andria?

18 A. Yes, ma'am.

19 Q. Who is she?

20 A. Andria Noble.

21 Q. You can continue, please.

22 A. Mhal52: " Yep."

23 Alisherkhan: "She has good quality meat on her."

24 Mhal52: "Definitely."

25 Alisherkhan: "Fuck her well before killing her."

D2RUVAL3

Walsh - direct

1 Mhal52: "Oh, absolutely. She is going to suffer
2 incredible pain. The rape will be the easy part for her.

3 Alisherkhan: "Rupture her anus and give her a good
4 anal."

5 Mhal52: "Yeah, I really want her to be alive in the
6 oven. I want her to experience being cooked alive."

7 Alisherkhan: "Tie her in a hogtied position and put
8 her in oven. She will be a cool meat."

9 Mhal52: "No. She'll be trussed up like a turkey
10 laying on her back, her hands tied in front of her, her feet
11 crossed at the ankles and tied up, then the hands and feet
12 connected, tied with cooking twine."

13 Alisherkhan: "Oil her well before putting in oven."

14 MS. WAXMAN: Ms. Chen, can we go to the next page of
15 that exhibit.

16 Q. And I will ask you Agent Walsh to begin reading at Mhal at
17 the top of the page.

18 A. Mhal52: "I want to show you my kitchen. She will very
19 easily fit in that oven and that counter in the center is
20 perfect to lay her out on. Yeah, I will oil her real nice. I
21 don't want to ruin her body. I'm hoping in 20 minutes she'll
22 be dead."

23 Alisherkhan: "She will take about 50 minutes to get
24 done in the oven."

25 Mhal52: She'll be cooking at around 160 degrees and

D2RUVAL3

Walsh - direct

1 she will be terrified, screaming, and crying and very little
2 oxygen in there. I don't think she will last too long before
3 she suffocates or something."

4 Alisherkhan: "Tie her well."

5 Mhal52: "She will be very, very tight and an apple in
6 her mouth."

7 Alisherkhan: "Good preparation buddy."

8 Mhal52: "I cannot wait. I am not into the humane
9 stuff either. It's personal with Andria. She will absolutely
10 suffer."

11 Q. Agent Walsh, now directing your attention to Government
12 Exhibit 426.

13 MS. WAXMAN: Your Honor, may we publish 426?

14 THE COURT: Yes.

15 Q. What is the date of this conversation, Agent Walsh?

16 A. May 1, 2012.

17 Q. Who is involved in this conversation?

18 A. Ali Khan and Mhal52.

19 Q. If you could just start reading from the top, Mhal.

20 A. Mhal52: "Hey."

21 Alisherkhan: "Hi buddy. How you doing? How is the
22 plan going on?"

23 Mhal52: "Going well. I've been keeping in touch with
24 her."

25 Alisherkhan: "Great. I hope you get her one day."

D2RUVAL3

Walsh - direct

1 Mhal52: "Yes, it will happen."

2 Alisherkhan: "Her pics were awesome and makes my
3 mouth water. She is awesome for slaughter. By the way, I was
4 kicked out again from DFN, so I have a new name, Throat
5 Slitter. We can remain in touch on DFN as well."

6 Mhal52: "OK great."

7 Alisherkhan: "Wow. Healthy meat. Ahh, you are very
8 lucky."

9 Mhal52: "Agreed. For eight years I've thought about
10 cooking her."

11 Q. Agent Walsh, based on your review of these email
12 communications or these electronic chats between Ali Khan and
13 Mhal, do you have an understanding of who Mhal is referring to
14 for eight years I've thought about cooking her?

15 A. Yes, I have.

16 Q. Who is that individual?

17 A. Andria Noble.

18 Q. Now directing your attention to the third page of that
19 exhibit. If you could go to the next page. Agent Walsh,
20 please look at Mhal at 6:18.

21 A. Mhal52: "If I use chloroform to abduct her will it ruin
22 the meat?"

23 Alisherkhan: "No, it won't."

24 Mhal52: "OK."

25 Alisherkhan: "It is secure way."

D2RUVAL3

Walsh - direct

1 Mhal52: "Yeah, I can make some at home."

2 Alisherkhan: "Get chloroform from away from your
3 town. How you can make that?"

4 Mhal52: "There are a couple of web sites with
5 instructions, basic household products can make it."

6 Alisherkhan: "Wow. I will see it as well."

7 Mhal52: "Yeah, I will kidnap her right from her
8 home."

9 Alisherkhan: "You need a good amount of chloroform."

10 Mhal52: "Yeah. I can easily conceal it too. She
11 will never see it coming."

12 Alisherkhan: "Do it when her neighbors are not
13 active. Use a very sharp knife to cut her head off and do that
14 in bathtub."

15 Mhal52: "Yeah."

16 Alisherkhan: "Cleaning will be easy. Buy few
17 shoppers to put her guts and intestines in it. Put her hear in
18 another shopper and cut off her identifiable parts like hands
19 and feet. Bury unwanted things in your backyard. You need a
20 cleaver or a chopper as bones don't get cut easily."

21 Mhal52: "Yeah, I'm working on a list of everything I
22 need. Is there any way I can cook her hands and feet?"

23 Q. Agent Walsh, now directing your attention to Government
24 Exhibit 427.

25 MS. WAXMAN: Your Honor, may we publish 427?

D2RUVAL3

Walsh - direct

1 THE COURT: Yes.

2 Q. What are we looking at here, Agent Walsh?

3 A. This is another chat between Ali Khan and Mhal52.

4 Q. What is the date of that chat?

5 A. May 9, 2012.

6 Q. So directing your attention to Ali Khan at 5:32, about
7 halfway down the page.

8 A. Alisherkhan: "That's good. She must trust you. Did you
9 get chloroform formulat for making chloroform? I would love to
10 make it as well."

11 Mhal52: "I found a web site but I haven't made it."

12 Alisherkhan: "OK. It will be great if you share its
13 recipe."

14 Mhal52: "Let me find it."

15 Alisherkhan: "OK. Thanks."

16 Mhal52, and then there's a link to the web site.

17 Q. And what is the web site called?

18 A. Howtomakechloroform .net.

19 Q. In connection with your investigation, did you go on that
20 web site?

21 A. Yes.

22 Q. Describe generally what that web site contains?

23 A. It is similar to the other one we saw yesterday. It is
24 instructions for making chloroform.

25 Q. If you can just continue through the rest of that page?

D2RUVAL3

Walsh - direct

1 A. Alisherkhan: "Thanks. It seems to be a good site."

2 Mhal52: "Yeah. I can wait to crathe soaked rag into
3 her face and feel her go limp."

4 Alisherkhan: "And put her in some big bag in back of
5 your truck. Feels good."

6 Mhal52: "Yeah. It's going to be a memorable
7 experience."

8 Q. Agent Walsh, now directing your attention to Government
9 Exhibit 428. What is that?

10 A. It is another chat between Ali Khan and Mhal52.

11 MS. WAXMAN: If we can publish that, your Honor?

12 THE COURT: Yes.

13 Q. Can you just read from where it says Ali Khan at 5:49?

14 A. Alisherkhan: "Great, but a little busy. How are you and
15 how's your hunt going on?"

16 Mhal52: "I'm doing well and the plan is slowly
17 evolving. I'm in the middle of constructing a pulley apparatus
18 in my basement to string her up by her feet."

19 Alisherkhan: "Great. That's good. How's A doing,
20 hope she will trust you to visit you and finally get cut up."

21 Mhal52: "She's doing well. I spoke with her
22 yesterday. Such a sweetheart."

23 Alisherkhan: "She will be really sweet and tasty."

24 Mhal52: "Yeah. It will be very memorable."

25 Q. Agent Walsh, directing your attention to Government Exhibit

D2RUVAL3

Walsh - direct

1 429.

2 MS. WAXMAN: Your Honor, may we publish that exhibit?

3 THE COURT: Yes.

4 Q. What are we looking at here, Agent Walsh?

5 A. This is another chat between Ali Khan and Mhal52 on July
6 17, 2012.

7 Q. If I could just direct your attention to Mhal at 8:21 and
8 if you could just read those four lines.

9 A. Mhal52: "I found someone who is going to help me with
10 Andria."

11 Alisherkhan: "Wow, that's cool."

12 Mhal52: "We were going to cook her outdoors on the
13 rotisserie in September."

14 Alisherkhan: "That will be wonderful."

15 Q. Could you continue reading?

16 A. Mhal52: "Just wanted to refresh your memory."

17 Alisherkhan: " I am drooling for her meat. Lucky you
18 guys."

19 Mhal52: "Her days are numbered. And he shares my
20 passion for inflicting as much pain as possible."

21 Alisherkhan: "Must use her before you kill her."

22 Mhal52: "Which is why we're going to very slowly cook
23 her alive until she dies. We're going to model our rotisserie
24 after this photo. It's a perfect contraption."

25 Q. Agent Walsh, in your review of the contents of a computer

D2RUVAL3

Walsh - direct

1 used by Officer Valle, did you find photographs after
2 rotisserie?

3 A. Yes, ma'am.

4 Q. Can we go to the next page. Would you just start reading
5 from Mhal at 8:33?

6 A. Mhal52: "Just need to work out a few kinks with the
7 abduction but we think we are all set. Have a nice recipe for
8 some chloroform."

9 Alisherkhan: "Please plan well and make it perfect.
10 That's great. I wish to know it too. Can you share please?"

11 Mhal52, there's a link to howtodothings.com.

12 Q. Did you go in that link during the investigation?

13 A. Yes, ma'am.

14 Q. Is that the document we saw yesterday, I think it was
15 Government Exhibit 604?

16 A. Yes, ma'am.

17 Q. You can just continue the next couple of lines.

18 A. Mhal52: "Her husband goes out on Friday afternoons after
19 work and she gets home early. I'm going to show up at her
20 place and chloroform her, strip her right there and tie her up.
21 She has a garage and I'm just going to pull right in."

22 Alisherkhan: "That's good."

23 Mhal52: "We're going to take her clothes with us of
24 course."

25 Alisherkhan: "Better."

D2RUVAL3

Walsh - direct

1 Mhal52: Much less likely to try and run if she's
2 naked and she will feel much more vulnerable."

3 Alisherkhan: "Yes."

4 Mhal52: "Some nice strong hemp to tie her hands and
5 feet. We will be out of there with Andria in 10 minutes.

6 Alisherkhan: "Cool."

7 Mhal52: "Maybe even less. I just have to practice my
8 techniques in tying someone up."

9 Alisherkhan: "I know you will tie her well."

10 Mhal52: "Yeah. Working on soundproofing the basement
11 too. That's where she will be held captive and raped. Then
12 she'll be cooked outdoors but I have a lot of space and no one
13 is around for three-quarters of a mile. I really hope she
14 lasts a long time over the fire."

15 Alisherkhan: "Yummy."

16 Mhal52: "I will save all of the news reports too.
17 She will definitely make the news. She is a city prosecutor."
18 Q. Can you go to the next page of the exhibit.

19 Agent Walsh, if you could just read the first few
20 lines, beginning with Mhal at 8:41.

21 A. Mhal52: "The good thing about that is there will likely be
22 plenty of suspects, family members of people she put in jail,
23 you know?"

24 Alisherkhan: "Don't care what happens after you eat
25 her. Enjoy and devour her cooked meat."

D2RUVAL3

Walsh - direct

1 THE COURT: Ms. Waxman, let's take our lunch break.
2 Ladies and gentlemen, we will take an hour. Come back at 215.

3 Don't discuss the case.

4 Keep an open mind.

5 Thank you very much.

6 (Luncheon recess)

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8 (Continued on next page)

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D2r6val4

A F T E R N O O N S E S S I O N

2:15 p.m.

THE COURT: Is there anything we need to take up
before the jury is brought in?

MS. WAXMAN: Not from the government, your Honor.

MS. GATTO: No, your Honor.

THE COURT: Please bring in the jury.

(Continued on next page)

D2r6val4

1 (In open court; jury present)

2 THE COURT: Please be seated.

3 Agent, you remain under oath.

4 THE WITNESS: Yes, your Honor.

5 THE COURT: Ms. Waxman.

6 MS. WAXMAN: Thank you, your Honor.

7 BY MS. WAXMAN:

8 Q. I am going to show you two more exhibits.

9 MS. WAXMAN: Your Honor, may I approach?

10 THE COURT: Yes.

11 Q. Agent Walsh, I am showing you what has been marked for
12 identification as Government Exhibit 442 and 443. Can you just
13 take a look at those and let us know whether you recognize
14 those documents?

15 A. Yes, ma'am, I do.

16 Q. What are those documents, Agent Walsh?

17 A. The first one is an e-mail from the MHa152@Yahoo.com
18 account and contains approximately 80-something female names as
19 well as a list of 10 activities.

20 Q. Agent Walsh, have you seen that document before today?

21 A. Yes, ma'am.

22 Q. Where did you originally obtain it from?

23 A. From the search warrant that we received from the
24 MHa152@Yahoo account.

25 Q. If you can take a look at the other exhibit that I handed

D2r6val4

1 you and describe what that is?

2 A. This is an e-mail from the MHa152@Yahoo.com account to
3 Webmaster@darkfetishnet.com. The subject is the account did
4 not upgrade. Sent on Monday, July 2nd, 2012.

5 Q. Where did you originally obtain that document?

6 A. This was also from the search warrant that we obtained.

7 Q. Are those two documents contained on Exhibit 108 that we
8 looked at yesterday?

9 A. Yes, ma'am, that disk.

10 MS. WAXMAN: Your Honor, the government offers
11 Government Exhibit 442 and 443 into evidence.

12 THE COURT: Any objection?

13 MR. BAUM: No objection.

14 THE COURT: Government Exhibits 442 and 443 are
15 received.

16 (Government's Exhibits 442 and 443 received in
17 evidence)

18 BY MS. WAXMAN:

19 Q. Agent Walsh, directing your attention to Government
20 Exhibit 442. You may have said this already, but approximately
21 how many names are on this exhibit?

22 A. Approximately 80 names, ma'am.

23 Q. Sorry?

24 A. Approximately 80 names, ma'am.

25 Q. What is the gender of the names?

D2r6val4

1 A. They appear to be all female.

2 Q. Do you see Kimberly --

3 MS. WAXMAN: Your Honor, can we publish this for the
4 jury?

5 THE COURT: Yes, you may.

6 Q. Do you see Kimberly Sauer's name on this list?

7 A. Yes, ma'am, I do.

8 Q. Do you see Alissa Frisca's name on this list?

9 A. Yes, ma'am, I do.

10 Q. Where is that?

11 A. Towards the bottom.

12 Q. Do you see Andria Condez's name on this list?

13 A. Yes, ma'am, I do.

14 Q. And where is that?

15 A. Towards the bottom.

16 Q. And what about Maureen Hartigan?

17 A. Yes, ma'am, I do. It is right in the middle.

18 MS. WAXMAN: We can highlight that as well.

19 Q. Kimberly Sauer?

20 A. Yes, ma'am.

21 MS. WAXMAN: If we can highlight that one as well,
22 Ms. Chen. Can we go to the top of this document and if we can
23 look at the header.

24 Q. Who appears to have sent this e-mail?

25 A. It is from the MHa152@Yahoo.com account.

D2r6val4

1 Q. Who is the recipient?

2 A. MHa152@yahoo.com account.

3 MS. WAXMAN: If we can go to the bottom of that
4 document.

5 Q. Can you just read those items at the bottom of that e-mail?

6 A. Number 1, Cooking class. Number 2, Thanksgiving. Number
7 3, Hotel. Number 4, Redneck Grill. Number 5, Vacation Tribe.
8 Number 6, Supermarket.

9 MS. WAXMAN: Can we see the next page of that exhibit?

10 Q. That list appears to continue. Can you read those items,
11 please?

12 A. Number 7, Obsession Summer. Number 8, Poor family. Number
13 9, Coworker.

14 Q. Thank you.

15 MS. WAXMAN: We can take that down.

16 Q. Agent Walsh, directing your attention now to what is in
17 evidence as Government Exhibit 443.

18 MS. WAXMAN: Can we publish that for the jury, your
19 Honor?

20 THE COURT: Yes.

21 Q. What are we looking at here, Agent Walsh?

22 A. This is an e-mail from the MHa152@yahoo.com account to the
23 Webmaster@Darkfetishnet.com.

24 Q. What does that indicate if you know,
25 Webmaster@Darkfetishnet?

D2r6val4

1 A. Typically the person who runs or administers the website.

2 Q. And can you read the text of that e-mail?

3 A. Hey, I was successful in purchasing a premium account last
4 night for \$15.95 cents but I still have the no been updated. I
5 am Girlmeat Hunter on the site and my e-mail is
6 MHa152@Yahoo.com. Thank you and great website.

7 Q. Agent Walsh, do you have an understanding based on your
8 review of the e-mail and your review of Darkfetishnet what a
9 premium account is?

10 A. Yes, ma'am.

11 Q. What is that?

12 A. The premium account allows you to access additional content
13 on the website.

14 MS. WAXMAN: Thank you. You can pull that down.

15 Q. Agent Walsh, approximately how many of Officer Valle's
16 e-mails and electronic chats did you review in connection with
17 your investigation?

18 A. Thousands.

19 Q. We just reviewed over yesterday and today about 40, is that
20 right?

21 A. That's correct, ma'am.

22 Q. Why did you focus on these 40 particular communications?

23 A. We believed that these chats and e-mails contained elements
24 of real crimes.

25 Q. And why did you come to that conclusion?

D2r6val4

1 A. They described dates, names and activities that you would
2 use to conduct a real crime.

3 Q. And did you cast aside a certain number of e-mails as well?

4 A. Yes, ma'am.

5 Q. Why did you choose not to focus on those e-mails?

6 A. Quite frankly, ma'am, they didn't seem realistic.

7 Q. Why not?

8 A. They were clearly role-play. They used the the word
9 "fantasy" in the actual chats or e-mails.

10 Q. You mentioned during your testimony a woman by the name of
11 Andria Condez?

12 A. Yes, ma'am.

13 Q. We saw her name on this list as well in Government
14 Exhibit 442?

15 A. Yes, ma'am.

16 Q. Was there a maiden name of that individual?

17 A. Yes, ma'am.

18 Q. What is that?

19 A. Nobel.

20 Q. Nobel.

21 Mr. Jackson reminded me of something.

22 Q. You testified that Nobel was associated with the name
23 Andria?

24 A. Yes, ma'am.

25 Q. Nobel is the married name and Condez is the married name?

D2r6val4

1 A. Yes, ma'am.

2 Q. Is that your understanding?

3 A. Yes, ma'am.

4 Q. You also testified that you reviewed in connection with
5 your investigation the Darkfetishnetwork?

6 A. Yes, ma'am.

7 Q. Did you review any communications between Officer Valle and
8 Michael Vanhise from Darkfetishnetwork?

9 A. I was unable to, ma'am.

10 Q. Why is that?

11 A. The account was deleted so we could not gain access.

12 Q. The same question for communications between Officer Valle
13 and Moody Blues. Were you able to retrieve those
14 communications from the Darkfetishnetwork?

15 A. No, ma'am.

16 Q. What was the reason for that?

17 A. We were unable to access the account because it had been
18 closed.

19 Q. Also communications between Officer Valle and Ali Khan,
20 were you able to review those communications that occurred on
21 the Darkfetishnetwork?

22 A. No, ma'am.

23 Q. What was the reason?

24 A. Because the account had been closed.

25 MS. WAXMAN: Your Honor, may I have a moment, please?

D2r6val4

1 THE COURT: Yes.

2 (Pause)

3 MS. WAXMAN: Your Honor, the government has no further
4 questions at this time.

5 THE COURT: Cross-examination.

6 CROSS-EXAMINATION

7 BY MR. BAUM:

8 Q. Good afternoon, Agent Walsh.

9 A. Good afternoon, sir.

10 Q. Agent Walsh, you testified on direct examination that you
11 had received all the Valle chats and e-mails and it involved
12 about two dozen participants, correct?

13 A. There are more e-mails and chats that occurred, but the
14 bulk of the repeated e-mails and chats were approximately two
15 dozen individuals.

16 Q. You testified that you separated the real ones, the real
17 participants from the fantasy, right?

18 A. Yes, sir.

19 Q. So out of 24 fantasy participants that you looked at --
20 excuse me. Out of 24 participants you look at, 21 you found to
21 be fantasy, didn't you?

22 A. To the best of my abilities. Yes, sir.

23 Q. Now, if you excuse me math is not my strong point, but 21
24 of 24 is around 80 percent of the participants you looked at
25 were fantasy role-plays involving Mr. Valle, right?

D2r6val4

Walsh - cross

1 A. They could have been. Yes, sir.

2 Q. No. No. Not that they could have been. You concluded
3 that they were, isn't that a fact?

4 MS. WAXMAN: Objection.

5 THE COURT: Overruled.

6 A. Yes, sir.

7 Q. Now. When that decision was made, you are not a forensic
8 psychiatrist, are you?

9 A. No, sir.

10 Q. I know you went to college. What did you major in?

11 A. Sociology, sir.

12 Q. And did you get any postcollege degrees?

13 A. No, sir.

14 Q. So you didn't major in psychology and you don't have any
15 degrees in psychology, right?

16 A. No, sir.

17 Q. Now, when you made that decision that 21 out of 24
18 participants with Mr. Valle were engaged in fantasy role-play,
19 were you the only one who made that decision?

20 A. No, sir.

21 Q. How many agents were involved in that decision?

22 A. Approximately eight to 10, sir.

23 Q. How many?

24 A. It eight to 10, sir.

25 Q. And how many people from the U.S. Attorney's Office were

D2r6val4

Walsh - cross

1 involved in that decision?

2 A. About two, sir.

3 Q. So eight to 10 law enforcement officers and at least two
4 lawyers from the U.S. Attorney's Office decided that out of 24
5 people that Mr. Valle chatted or e-mailed with 21 were fantasy
6 role-plays, is that correct?

7 A. Approximately. Yes, sir.

8 Q. Now, you testified about separating the ones that you
9 thought were fantasy from the ones that you thought were real.
10 Do you remember just being asked those questions?

11 A. Yes, sir.

12 Q. I think you said that the ones that were real involved
13 names, correct?

14 A. That was one of the elements. Yes, sir.

15 Q. And the ones that were real involved dates, correct?

16 A. That was one of the elements. Yes, sir.

17 Q. What were the other elements that made you believe it was
18 real?

19 A. Discussions of past crimes as well, sir.

20 Q. You said the ones that were fantasy role-plays, you
21 believed because they actually said in the chat that they were
22 engaged in fantasy?

23 A. Not all of them, sir. But some of them, yes.

24 Q. So it is true that at least some of the 21 or 24 that you
25 found, you and at least 10 other people found the fantasy

D2r6val4

Walsh - cross

1 role-plays did not include statements that, Hey, we're engaged
2 in fantasy role-plays, correct?

3 A. Some of them. That's correct, sir.

4 Q. Isn't it a fact, Agent Walsh, that of some of the
5 role-plays that you determined were fantasy did involve women's
6 names?

7 A. That's correct, sir.

8 Q. In fact, some of the role-plays that you determined were
9 fantasy role-play involved many of the names that were in the
10 ones you thought were real?

11 A. I can't recall every single conversation, sir, but I
12 believe that to be true.

13 Q. There was Alissa in the fantasy role-plays?

14 A. There could have been, sir.

15 Q. Maureen, right?

16 A. It is possible, sir.

17 Q. Kim?

18 A. It is possible. I don't have those conversations in front
19 of me.

20 Q. And the chats that you discussed that are on the government
21 exhibit, the disk, you reviewed those chats, didn't you?

22 A. Yes, sir.

23 Q. Now, you testified here that the real chats involved an
24 individual by the name of Ali Khan, Mike Vanhise and Moody
25 Blues, correct?

D2r6val4

Walsh - cross

1 A. Those are ones I believe to be real, sir, yes.

2 Q. Isn't it a fact that some of the women named in those real
3 chats were also named in the fantasy chats?

4 A. Yes, sir.

5 Q. Isn't it a fact that the photos that were sent in the real
6 chats were also sent in fantasy chats?

7 A. Again, sir, I don't have those in front of me, but it is
8 possible.

9 Q. Isn't it a fact that the fantasy chats that about 10 people
10 determined were fantasy also involved kidnapping, rape, torture
11 and cooking women?

12 MS. WAXMAN: Objection, your Honor. The question is
13 compound.

14 THE COURT: Can you break it down, Mr. Baum?

15 MR. BAUM: Yes, of course.

16 Q. Isn't it a fact that some of the chats that were found to
17 be fantasy by these 10 people who looked at it involved
18 kidnapping?

19 A. Yes, sir.

20 Q. Isn't it a fact that some of the chats that 10 people found
21 to be fantasy involved rape?

22 A. Yes, sir.

23 Q. Isn't it a fact that some of the chats that 10 people found
24 to be fantasy involved torture?

25 A. They could have. Yes, sir.

D2r6val4

Walsh - cross

1 Q. And isn't it a fact that some of the chats that 10 people
2 including yourself found to be fantasy involved cooking women?

3 A. They could have. Yes, sir.

4 Q. And eating them, correct?

5 A. They could have. Yes, sir.

6 Q. Isn't it a fact that some of the chats you found to be
7 fantasy involved target dates?

8 A. Again, sir, I don't have those in front of me, but it is
9 possible.

10 Q. Isn't it a fact that some of the chats you found to be
11 fantasy discussed the use of chloroform?

12 A. Sir, they could have. I don't have those in front of me.

13 Q. Isn't it a fact that some of the chats you found to be
14 fantasy involved Mr. Valle selling women for prices like
15 \$4,000?

16 A. Again, sir, could have. I don't have those in front of me.

17 Q. Isn't it a fact that some of the chats you found to be
18 fantasy involved creating menus to eat women?

19 A. Again, sir, I don't have those in front of me, but it is
20 possible.

21 Q. Now, all of the things that I just mentioned -- targets,
22 dates, chloroform, selling women for a specific price, torture,
23 rape, cooking, photos -- in the fantasy chats were elements
24 that you considered in determining the real chats?

25 A. There were some of them. Yes, sir.

D2r6val4

Walsh - cross

1 Q. And now you are telling the jury that you were able to
2 determine that some chats were fantasy and some chats even
3 though they involved the same elements, the same women were
4 real?

5 MS. WAXMAN: Objection.

6 THE COURT: Sustained.

7 A. I wouldn't say that all of those --

8 THE COURT: No. I sustained the objection. That
9 means you don't answer the question.

10 Q. Government Exhibit I think it is 108 was the disk I believe
11 that was in evidence. Do you recall that?

12 MS. WAXMAN: Just to be clear, your Honor --

13 Q. 108 was a disk from which the hard drivers from the two
14 computers were downloaded involving chats, is that it?

15 A. 108 was the search warrant results, I believe, sir.

16 Q. I am sorry. Nevertheless, you reviewed a number of chats
17 including the fantasy chats, correct?

18 A. Yes, sir.

19 Q. I would like to show you what I have marked as Defense
20 Exhibits collectively E1, E4, E3, E5, E6, E10, E12, E11. I
21 would like to show you these chats that you reviewed between
22 MHa152 and other participants.

23 A. Yes, sir, I recognize these.

24 MR. BAUM: Your Honor, I now offer them into evidence
25 as defense exhibits as stated in the record previously.

D2r6val4

Walsh - cross

1 MS. WAXMAN: Your Honor, we object to the admission of
2 these chats.

3 THE COURT: On what grounds?

4 MS. WAXMAN: Your Honor, on the ground that they are
5 hearsay.

6 THE COURT: They are not offered for their truth, are
7 they, Mr. Baum?

8 MR. BAUM: Well, Judge, they are offered on two
9 grounds. One, the government brought out that he had reviewed
10 these chats in making his decision and this is to discuss the
11 basis for that decision. That was brought out on the
12 government's direct case.

13 Secondly, they are offered simply as proof of -- some
14 may be offered not for its truth, but mostly they are offered
15 because on direct examination he had discussed these chats.

16 THE COURT: No. The objection is hearsay. So my
17 question to you is --

18 MR. BAUM: They are not being offered for their truth.

19 THE COURT: Because they are not being offered for
20 their truth, they are not hearsay. So there is no hearsay
21 objection that is proper.

22 Any other objection?

23 MS. WAXMAN: Your Honor, I am not sure of the
24 relevance of these chats.

25 THE COURT: Well, Mr. Baum has made a representation

D2r6val4

Walsh - cross

1 of their relevance and I am going to overrule the objection to
2 the extent it is based on relevance. Defense Exhibits E1, E3,
3 E4, E5, E6, E10, E11 and E12 are received in evidence.

4 (Defendant's Exhibits E1, E3, E4, E5, E6, E10, E11 and
5 E12 received in evidence)

6 BY MR. BAUM:

7 Q. Now, Agent Walsh, before we look at those chats, I would
8 like to ask you a few more questions about your investigation
9 in this case. You talked about your involvement in the
10 investigation when you were on direct examination.

11 Do you recall that?

12 A. Yes, sir.

13 Q. I believe you testified on direct examination that the
14 investigation itself began in September 2012?

15 A. Yes, sir.

16 Q. Is that correct.

17 I believe you testified on direct examination that the
18 investigation began when Mr. Valle's wife came to the FBI?

19 A. Yes, sir. In Reno.

20 Q. And I believe you testified that you entered the
21 investigation sometime in October of 2012, correct?

22 A. That's correct, sir.

23 Q. You also testified that you received the contents of two
24 computers, correct?

25 A. Yes, sir.

D2r6val4

Walsh - cross

1 Q. And is it true that you also were brought up to date
2 regarding the status of the investigation after you came on
3 board, is that accurate?

4 A. Yes, sir.

5 Q. Did you actually participate in any of the interviews of
6 any of the women who were the subjects of the investigation?

7 A. No, sir.

8 Q. Did you review interviews had by FBI agents with the women?

9 A. I've read some of the 302s, yes, sir.

10 Q. And were you involved in entering Mr. Valle's apartment on
11 October 9th to retrieve one of the computers?

12 A. No, sir.

13 Q. Now, based on your knowledge of the investigation, isn't it
14 a fact that no women who are named in any of the chats that you
15 reviewed were kidnapped?

16 A. Thankfully, no.

17 Q. Isn't it a fact that no women in any of the chats you
18 reviewed were tortured, raped or cooked?

19 A. Thankfully, no.

20 Q. And isn't it a fact based on your review of the
21 investigation, your participation in the investigation that
22 there is no evidence that Mr. Valle ever met personally with
23 any of the individuals that he chatted with?

24 A. There could be, sir, but I am not aware of any interaction.

25 Q. That is what I am asking. Based on your investigation,

D2r6val4

Walsh - cross

1 discussions with other agents, everything you know about this
2 case, there is no evidence to your knowledge that Mr. Valle
3 ever met with anyone else, correct?

4 A. To my knowledge, no, he never met with anyone. No.

5 Q. In fact, isn't it a fact that to your knowledge based on
6 everything that you know about this investigation, there is no
7 evidence that Mr. Valle even spoke by phone with any of these
8 individuals?

9 A. I am not aware of any phone contact, no, sir.

10 Q. And isn't it a fact based on your review of the chats and
11 e-mails that not a single chat or e-mail had an address of the
12 person that Mr. Valle was speaking with.

13 A. Of the ones that I was able to review, no, sir.

14 Q. When you say of the ones you have seen. Ali Khan's e-mail,
15 was there any address in there for Ali Khan?

16 A. No, sir.

17 Q. Mike Vanhise's email, any address if there for Mike
18 Vanhise?

19 A. Not between him and Mr. Valle. No, sir.

20 Q. In Moody Blues' e-mail, any address in there for Moody
21 Blues?

22 A. Not in the ones I reviewed. No, sir.

23 Q. Well, did you review all of the Moody Blues?

24 A. Yes, sir. Not in the ones I reviewed.

25 Q. So then what you are saying is in every single chat and

D2r6val4

Walsh - cross

1 e-mail you reviewed -- Moody Blues, Ali Khan and Mike Vanhise,
2 which includes all the chats that existed to your knowledge --
3 there was no address in any of those chats?

4 A. Of the ones I reviewed, I never saw the address.

5 Q. In the ones reviewed.

6 Did you find any chloroform in this case?

7 A. Only the recipes.

8 Q. I am sorry?

9 A. Only the links to the recipes that were contained in--

10 Q. Okay. So what you found was a list in the computer,
11 correct?

12 A. A list of?

13 Q. Well, the receives?

14 A. The links, sir.

15 Q. Okay. I am asking you did you actually find a bottle of
16 chloroform? Did the FBI find chloroform that belonged to
17 Mr. Valle?

18 A. No, sir.

19 Q. Did the FBI find any ropes to tie up women that is
20 attributable to Mr. Valle?

21 A. There could have been ropes in the apartment, sir.

22 Q. Did you know of any ropes recovered attributable to
23 Mr. Valle?

24 A. We did not recover any rope. No, sir.

25 Q. Did you find a pulley system that would hang people from

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Walsh - cross

1 the ceiling in Mr. Valle's apartment or anywhere else?

2 A. In areas we viewed, no, sir.

3 Q. Did you find an oven large enough to cook women in

4 Mr. Valle's apartment?

5 A. I think that is debatable on the size of the woman, sir.

6 Q. I am sorry?

7 A. I think that is debatable depending on the size of the

8 women.

9 Q. Let me ask you are you familiar with the oven that was in

10 Mr. Valle's apartment?

11 A. I saw it, yes, sir.

12 Q. Most ovens are either 30 or 36 inches in length. Was his

13 bigger than that?

14 THE COURT: Are you testifying, Mr. Baum?

15 MR. BAUM: No. I withdraw that, Judge. I will

16 rephrase.

17 Q. Isn't it a fact that standard oven is 30 or 36 inches in

18 length?

19 MS. WAXMAN: Objection.

20 THE COURT: Overruled.

21 Q. Do you know that?

22 A. I don't know the size of ovens. No, sir.

23 Q. Do you have an oven in your house?

24 MS. WAXMAN: Objection.

25 THE COURT: Overruled.

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Walsh - cross

1 A. I do, sir.

2 Q. What size is it?

3 A. I honestly have never measured it, sir.

4 Q. Do you know if the oven in Mr. Valle's house was larger
5 than 36 inches?

6 A. I didn't measure it, sir.

7 Q. Did the FBI seize the oven as evidence?

8 A. No, it did not, sir.

9 Q. Did you find any body parts or bodies anywhere attributable
10 to Mr. Valle?

11 A. Thankfully, no.

12 Q. Thankfully, no.

13 Now, did you find whether Mr. Valle had a house in
14 upstate New York?

15 A. We're not aware of any houses that Mr. Valle had in upstate
16 New York.

17 Q. I assume the FBI looked for a house in upstate New York,
18 correct?

19 A. Yes, sir.

20 Q. And there is no house in upstate New York?

21 A. There may be, sir, but not one that we attributed to
22 Mr. Valle.

23 Q. You mean there may be one, but the FBI with the hundreds of
24 thousands of agents couldn't find it, is that what you are
25 saying?

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Walsh - cross

1 MS. WAXMAN: Objection.

2 THE COURT: Sustained.

3 Q. Did you determine whether Mr. Valle ever traveled out of
4 the country in 2012?

5 A. No, sir. I did not.

6 Q. He did not, right?

7 Are you aware of the apartment building that Mr. Valle
8 lived in?

9 A. Yes, sir.

10 Q. How many floors in that building?

11 A. I don't recall exactly, sir, but not many.

12 Q. Would it be six floors?

13 A. It could have been, sir. I wasn't counting floors.

14 Q. Do you know how many apartments on each floor?

15 A. I do not know, sir.

16 Q. Do you know how many people lived in the building?

17 A. No, sir. I do not.

18 Q. Do you know if that building has a common basement?

19 A. I believe it does, sir.

20 Q. Do you know if the laundry room is in there?

21 A. I do not, sir.

22 Q. Do you know if people go in the basement who live in that
23 building?

24 A. I do not, sir.

25 Q. Do you know if a camera was recovered from Mr. Valle's

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Walsh - cross

1 apartment?

2 A. I believe there was.

3 Q. Do you know if a camera contained any pictures of women
4 involved in this case?

5 A. Not to my knowledge, no, sir.

6 Q. Do you know whether Mr. Valle has a car?

7 A. I believe he does, sir.

8 Q. Now, there is mention in the chats with Mr. Valle having a
9 van. Do you recall that?

10 A. Yes, sir.

11 Q. Mr. Valle doesn't have a van, does he?

12 A. Not to my knowledge.

13 Q. In one of the chats at least is there discussion where
14 Mr. Valle and MHal says that he is going to put a body in the
15 trunk of his car?

16 A. Yes, sir. I believe there is.

17 Q. Now, the FBI must have searched the trunk of Mr. Valle's
18 car, right?

19 A. No, sir.

20 Q. You didn't search for DNA in the trunk?

21 A. No, sir.

22 Q. You didn't search to determine if there had ever been a
23 body in that trunk?

24 A. No, sir.

25 Q. Now, after the complaint that his wife made to the FBI in

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Walsh - cross

1 September 21st how long elapsed until Mr. Valle was arrested?

2 A. He was arrested I think on the 24th of October, sir.

3 Q. So that would be a little over a month, right?

4 A. Yes, sir.

5 Q. The FBI must have had some sort of surveillance on
6 Mr. Valle, correct?

7 A. We did not, sir.

8 Q. Were you following him in any way?

9 A. I was not. No, sir.

10 Q. Do you know whether in that month he did anything illegal?

11 A. I do not, sir.

12 Q. Now, the 89 folders that you said were in Mr. Valle's file,
13 they were Facebook pictures, right?

14 A. A lot of them were, sir.

15 Q. And in those folders that had the pictures, there was no
16 identifying information, was there?

17 A. In the folders, no, sir.

18 Q. Now, I would like you to go to Defense Exhibit E3, which is
19 a chat between MHa152 and Valerie bear.

20 MR. BAUM: Ms. Katz, can you put page 1 of E3 on the
21 screen?

22 Judge, may we have a moment? There is a technical
23 glitch.

24 THE COURT: Sure.

25 BY MR. BAUM:

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Walsh - cross

1 Q. Now, what does this represent, this first page?

2 A. This appears to be a chat between Valerie Baird and MHal52.

3 Q. I believe you testified that you believed MHal52 to be
4 Gilberto Valle, correct?

5 A. Yes, sir.

6 Q. What is the date of this chat?

7 A. February 7th, 2012.

8 Q. Now, I would like you to look down at the bottom of the
9 page starting with 82150.

10 MR. BAUM: Can you show that, Ms. Katz, please?

11 Q. Now, Ms. Baird says, So can you sell a slave like that?

12 And MHal says, Yeah.

13 And Ms. Baird says, I mean for real?

14 And MHal says, No, I am just talking fantasy.

15 Baird, smiles.

16 MHal, No, matter what I say, it's make believe.

17 Baird, Okay.

18 Was this one of the chats that you found to be
19 fantasy?

20 A. Yes, sir.

21 MR. BAUM: Can we go to page 2, Ms. Katz?

22 Q. Can you read starting at the top down to 82710?

23 A. From the top, sir?

24 Q. Yes, please. Down to 82710.

25 A. MHal52, I just like to get a little dirty with the ideas.

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Walsh - cross

1 Valerie, Just so you know that reality occurs.

2 MHal52, Okay. I just have a world in my mind and that
3 world I am kidnapping women and selling them to people
4 interested in buying them.

5 Valerie, I understand. That world isn't too far off
6 you have to understand.

7 MHal52, I got you.

8 Valerie, Does that bother you?

9 MHal52, Yeah. I wish women wouldn't have to go
10 through that.

11 Q. And then the next line?

12 A. Valerie, I know.

13 Q. This was a chat that you found to be fantasy, correct?

14 A. Yes, sir.

15 Q. And is it fair to say you found them to be fantasy at least
16 in part because MHal said that I have a world in my mind and in
17 that world I am kidnapping women and selling them to people
18 interested in buying them; is that part of the reason you found
19 this to be fantasy?

20 A. Part of it, sir.

21 Q. Now, could you go down to 83204 and can you read that line,
22 please?

23 A. MHal52, In my fantasies the girls don't experience happy
24 endings.

25 Q. Following that can you read to the end of the page?

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Walsh - cross

1 A. Valerie, Usually in reality they don't either.

2 MHal52, You mean death?

3 Valerie, Happens. Can you imagine branding a slave?

4 MHal52, Yeah, I can.

5 Valerie, But not for real?

6 MHal52, No. I can also imagine butchering and cooking
7 a girl.

8 Valerie, Nods.

9 Q. So in this chat so far, Mr. Valle was talking about having
10 women as slaves and cooking a girl, correct?

11 A. Yes, sir.

12 Q. But this is fantasy, isn't it?

13 A. It appears to be.

14 Q. It is a fantasy role-play, isn't it?

15 A. It appears to be.

16 MR. BAUM: Can you go to the next page, Ms. Katz, page
17 3?

18 Q. Can you read, Agent, starting at 83721?

19 MR. BAUM: Can you highlight that, Ms. Katz, 83721 for
20 a few lines, about four or five lines.

21 Q. Can you read 82731?

22 A. Eight --

23 Q. Where it says, Go ahead and ask...

24 A. Valerie, Go ahead and ask. I can tell you are full of
25 questions.

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Walsh - cross

1 MHal52, Well, the cannibalism really fascinates me.

2 Valerie, Can you actually eat in reality if you had
3 the chance?

4 MHal52, Yes.

5 Q. Okay. That's enough.

6 Now, there is a reference to cannibalism, correct?

7 A. Correct.

8 Q. And this is a fantasy chat, isn't it?

9 A. It could be, sir.

10 Q. No. No. You determined it was?

11 MS. WAXMAN: Objection.

12 THE COURT: Overruled.

13 You need to pose questions, Mr. Baum.

14 MR. BAUM: Yes. Excuse me.

15 Q. Didn't you and perhaps 10 other people in law enforcement
16 determine this was a fantasy chat?

17 A. I don't agree with that, sir.

18 Q. Well, you testified from the very beginning that this chat
19 was fantasy, didn't you?

20 A. I said that it appears to be, sir.

21 Q. No. No. Was there a determination that this was one of
22 the 21 of 24 participants who were engaged in fantasy?

23 A. Sir, I said we focused on three, but the other 21 could
24 have been, but we didn't focus on them.

25 Q. No, Agent. You testified that you found 21 of 24

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Walsh - cross

1 participants to have engaged in fantasy role-playing, didn't
2 you?

3 MS. WAXMAN: Objection.

4 THE COURT: Overruled.

5 A. Can you repose the question, sir?

6 Q. Of course.

7 MR. BAUM: Can the reporter please read it back?

8 (Record read)

9 Q. 21 of 24 participants you testified you found and you
10 testified so did perhaps eight to 10 other people engaged in a
11 fantasy role-play, isn't that what you testified to?

12 A. I did, sir.

13 Q. This was one of the fantasy role-plays, wasn't it?

14 A. It appears to be, sir, yes.

15 Q. You keep saying it appear to be. You believed it was?

16 A. Sir, I can't say with 100 percent certainty.

17 Q. Of course you can't. Just like you can't say with
18 100 percent certainty that the ones you believe are real are
19 real?

20 MS. WAXMAN: Objection.

21 THE COURT: Sustained.

22 Q. Well, isn't it a fact that you can't say with 100 percent
23 certainty that the three you picked out are real?

24 A. I believe they are, sir.

25 Q. Oh, and this one you believe is fantasy or not fantasy?

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Walsh - cross

1 A. Yes, sir, I believe it is fantasy.

2 Q. So there is a discussion about cannibalism in this one,
3 isn't there?

4 A. There was in the previous page. Yes, sir.

5 Q. And there was a discussion in which someone said, Could you
6 actually eat in reality if you had a chance, and MHa152 said,
7 Yes, wasn't there in this fantasy?

8 A. Yes, sir. On the last page.

9 Q. Fantasy.

10 Now, can you look at Defendant's Exhibit E6, please?

11 A. Yes, sir.

12 MR. BAUM: Let's look at the page 2, Ms. Katz.

13 MS. WAXMAN: Your Honor, we object to this. Can we
14 have a side bar, please?

15 THE COURT: Yes.

16 MS. WAXMAN: Thank you.

17 (Continued on next page)

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Walsh - cross

1 (At the side bar)

2 MR. JACKSON: So, your Honor, there are two basis for
3 our objection to this line of questioning. One, we think it is
4 irrelevant. Mr. Baum is asking questions about the details of
5 specific conversations with a number of individuals who are not
6 identified as targets of the conspiracy. We don't think that
7 is relevant.

8 Two, there is no cross-examination in this. Agent
9 Walsh has already testified that he separated out a number of
10 e-mails he thought were not relevant to the investigation. His
11 testimony is the ones he was focused on. Now we're going
12 through the process of reviewing a bunch of other e-mails.
13 This also brings into question the 611 --

14 THE COURT: Well, on the 611(b) issue you had agreed
15 that for law enforcement agent you would raise no 611(b)
16 objection. We talked about that before the trial began. Am I
17 correct about that?

18 MR. JACKSON: I think it is the opposite. We said we
19 raised no 611(b).

20 MR. BAUM: Judge.

21 THE COURT: Let him finish.

22 MR. JACKSON: My issue is it appears that at this
23 point what they are attempting to do with Agent Walsh is simply
24 review a bunch of chats that they think are relevant to
25 Mr. Valle's mindset. If they would like to call a witness who

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Walsh - cross

1 can authenticate a number of these chats and the Court believes
2 they are relevant, they are entitled to that. But this is not
3 really cross-examination.

4 THE COURT: Well, what I think they are doing is the
5 agent has testified that he divided the chats into ones that he
6 believed were real and ones that he believed were fantasy.
7 That was elicited on his direct examination. So I don't know
8 how I can preclude the defense from exploring whether that
9 division is rational or not. That is the way you set it up.

10 MR. BAUM: Uh-huh.

11 THE COURT: Mr. Baum, I am not seeking your approval.

12 MR. BAUM: I am sorry. You did take the words out of
13 my mouth.

14 THE COURT: That is the problem. It was set up that
15 way. The paradigm that was set up by the government was, okay,
16 there were thousands of chats, we reviewed them, we plucked out
17 the ones that we thought were real and we discarded the ones
18 that were fantasy and now they are seeking to explore whether
19 that division makes any sense. And of course there are larger
20 points that everything that took place on this site is fantasy
21 and the more examples you have I suppose of Mr. Valle engaged
22 in fantasy, admittedly fantasy chats, increases the possibility
23 that the chats that the government contends are real are
24 actually fantasy.

25 Now, that is one of the reasons why I asked Mr. Baum

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Walsh - cross

1 whether he was introducing the chats for their truth. As I
2 suspected he was not. He is merely introducing them for the
3 fact that it goes to the agent's credibility in terms of making
4 a division between real fantasy. The situation we have is
5 because the testimony on direct was that, I reviewed these and
6 I made a determination of what was real and what was fantasy
7 his credibility on that issue is very much centrally before the
8 jury.

9 So is there anything you want to say, Mr. Baum?

10 MR. BAUM: No. I have nothing to add.

11 THE COURT: Do you understand the basis?

12 MR. JACKSON: I absolutely understand the Court's
13 rationale.

14 The only addition thing I would say the Court's
15 rationale makes sense, but I would note that we may object to
16 certain questions because I think some of Mr. Baum's questions
17 are not really going to that issue. I think a valid inquiry,
18 but I think that every one of the questions appear to attempt
19 to hide the aspects of the chats that don't go to the real
20 question that the Court has identified as a valid question.

21 THE COURT: I would ask you to keep that in mind,
22 Mr. Baum.

23 MR. BAUM: I will, Judge.

24 THE COURT: In particular I would be concerned if the
25 questioning veered into this being offer for its truth and

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Walsh - cross

1 essentially Mr. Baum's offense being put in without Mr. Valle
2 being called to testify. So I am concerned about that.

3 MR. BAUM: Okay. I will try.

4 THE COURT: That is not the reason that I believe you
5 were introducing these.

6 MR. BAUM: It is not the reason.

7 THE COURT: Okay.

8 MR. BAUM: Just to clarify, what I am going to try to
9 do with these chats as you said is point out that they have
10 aspects that are identical or similar to what is in the ones
11 that identified as real chats.

12 THE COURT: I understand.

13 MR. BAUM: Okay.

14 MR. JACKSON: Thank you, your Honor.

15 (Continued on next page)

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Walsh - cross

1 (In open court)

2 MR. BAUM: May I proceed?

3 THE COURT: Yes.

4 MR. BAUM: Thank you.

5 May I please put up page 2 of Defense E6.

6 Can you focus on 9:48:07 through 9:51:58.

7 BY MR. BAUM:

8 Q. Now would you take a look at those lines 9:48:07 through
9 9:51:58, Agent, please?

10 A. Yes.

11 Q. Do you see them?

12 A. Yes, sir.

13 Q. And those lines, there is a discussion between Mhal and
14 Jackcrow2 about barbecue, in which women would be barbecued, is
15 that correct?

16 A. It appears that way, yes.

17 Q. Wasn't that one of the points that was raised in the real
18 chats, women being barbecued?

19 A. Yes.

20 MR. BAUM: Now, Ms. Katz can you go down to 9:55:32
21 through the end of the page.

22 Q. Now, in those lines 9:55:32 through the end of the page
23 there are a number of women mentioned there, right?

24 A. Yes.

25 Q. There's Allison, Danielle, Andria, Caitlin, Erika, Abby,

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Walsh - cross

1 Sarah -- are those the names mentioned.

2 A. Yes, sir.

3 Q. And one of the names mentioned is Andria, correct?

4 A. Yes.

5 Q. In fact, wasn't Andria one of the women named as a subject
6 or target in the real chats?

7 A. Yes.

8 Q. Do you see where Mhal says, the third line from the bottom:
9 "Very nice selections, but Caitlin and Abby are already dead"?
10 Do you see that?

11 A. Yes, sir.

12 Q. In fact, no women that you could determine were dead?

13 A. Of the women that we identified, that's correct, sir.

14 MR. BAUM: Can you turn to page 3, Ms. Katz.

15 Q. Now, this is a chat on February 24, 2012 at 10:19, is that
16 correct, Agent?

17 A. Yes, sir.

18 MR. BAUM: Can you highlight, Ms. Katz, line
19 10:10:01 -- excuse me -- line 10:08:38 through line 10:10:54.

20 Q. Now, in those lines there's a discussion between Mhal and
21 Jackcrow about women that they may want to cook and there's a
22 discussion about the price, is that correct?

23 A. Yes, sir.

24 Q. And Jackcrow says on line 10:10:01: "Sweet. How much for
25 all of them?"

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Walsh - cross

1 And Mhal responds: "In determining prices, I factor
2 in the degree of difficulty in kidnapping the girl." Do you
3 see that?

4 A. Yes, sir.

5 Q. Isn't that a negotiation which in fact appeared in the
6 chats or emails with Mike Vanhise?

7 A. The negotiation, yes, sir.

8 Q. So here in the fantasy email, you also have a negotiation
9 for a price for women to be kidnapped which also appeared in
10 the real -- the ones you termed the real chats, correct?

11 A. In the Mike Vanhise conversation, yes, sir --

12 Q. That's what I said.

13 MR. BAUM: Can you highlight line 10:15:59, Ms. Katz.

14 Q. Now, in this line, Mhal writes: "For Allison and Danielle
15 \$5,000." Do you see that?

16 A. Yes, sir.

17 Q. In what you have termed to be the real role play or the
18 real chats with Mike Vanhise, there was a negotiation for
19 \$5,000, wasn't there?

20 A. Yes, sir.

21 Q. But this is a fantasy chat, isn't it?

22 A. Yes, sir.

23 MR. BAUM: Can you turn to page 5 which is the
24 conversation, Ms. Katz, on February 27, 2012.

25 Q. Now, starting with the second line, Mhal writes: I

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Walsh - cross

1 actually got off the phone with Andria a little while ago and
2 continues, so that motivated me to plaster her on DFN." Do you
3 see that?

4 A. Yes, sir.

5 Q. On the ones that you termed real chats, in fact there was a
6 discussion about Andria, right?

7 A. Yes.

8 Q. In fact in the real chats -- just like in the fantasy role
9 play -- Andria's picture was posted, correct, on DFN?

10 A. Yes.

11 Q. Now, would you look down at 6:42:12 to 6:44:24. Now,
12 Jackcrow says: "I'm still wanting to help you with her." Do
13 you see that?

14 A. Yes, sir.

15 Q. In fact, in the real chats, there are occasions when
16 Mr. Valle is alleged to have said, I need help with this,
17 correct?

18 A. Yes, sir.

19 MS. WAXMAN: Objection.

20 THE COURT: What grounds?

21 MS. WAXMAN: Your Honor, I think that these questions
22 are not an accurate representation of what the agent testified
23 to.

24 THE COURT: This is cross-examination. He is welcome
25 to say that.

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Walsh - cross

1 Overruled.

2 Q. So in the fantasy chats there is a discussion about someone
3 helping him and in the real chats there was a similar
4 discussion, correct?

5 THE COURT: That is not clear, Mr. Baum.

6 Q. In the fantasy chats there is a discussion in which someone
7 offers to help him with Andria, correct, in this fantasy chat?

8 A. Right here, yes, sir.

9 Q. And in the real chats at some point -- that you have termed
10 to be the real chats -- wasn't there also a discussion where
11 either Ali Khan or Moody Blues offered to help Mr. Valle with
12 Andria?

13 A. Yes, sir.

14 Q. Now, on line 6:43:55, Mhal says: "I have been researching
15 bondage positions." And then he goes on to say: "There is one
16 that I want to try on her, her arms are spread eagle on the bed
17 and then her legs are raised up, pushed up all the way back
18 toward her arms and taped to her arms."

19 Now, in what you have described in the real chats,
20 wasn't there discussions about tying up women in that fashion?

21 A. If I had all of these conversations in front of me, so I
22 don't know if it is the exact same way.

23 Q. I am not asking you if it is the exact same way. In the
24 conversations that you read on direct examination, weren't
25 there conversations in what you termed to be the real chats

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Walsh - cross

1 that involved tying up women and spreading them out spread
2 eagle?

3 A. Yes. There were discussions about tying up women.

4 MR. BAUM: Can you highlight the last three lines of
5 that page, Ms. Katz?

6 Q. Now in these lines, the fantasy role play, there is a
7 discussion about butchering a woman and that Mhal saying: "I
8 love the thought of her spending her last moments on earth
9 being cooked alive." Isn't that similar to statements in what
10 Mhal made in what you described as the real chat?

11 A. Similar, yes, sir.

12 MR. BAUM: Can you go to the next page, conversation
13 of February 27 which is a continuation.

14 Q. Now, in the first two lines Mhal said: But really she is
15 not -- referring to the butchering, correct?

16 Can you read it from the prior page, the butchering
17 and being cooked alive?

18 A. Yes, sir.

19 Q. But he says: "Really she is not. It is just for my
20 entertainment and her suffering." Do you see that?

21 A. Yes, sir.

22 Q. Now, what you described as the real chats, weren't there
23 portions where Mhal said that the cooking was so that women
24 would suffer?

25 A. Yes. There were similar conversations.

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Walsh - cross

1 Q. Would go down to line 6:53:27, and the three lines and two
2 lines after that. Now, here, Jackcrow says: "Then we torture
3 her beyond belief."

4 And Mhal says: "Yeah, some waterboarding would be in
5 order."

6 And Jackcrow says: "Oh, yes."

7 Isn't it a fact that Mr. Valle in what you described
8 as the real chats also said that he wanted to do waterboarding
9 to someone?

10 A. I don't recall that particular conversation.

11 MR. BAUM: Ms. Katz can you take that down, please.

12 Ms. Chen, can you put up Government Exhibit 415,
13 please. Can you highlight for us line 4:50:15.

14 Q. Do you see what Mhal says in that chat?

15 A. I do, sir.

16 Q. What does he say? Doesn't say: "I might waterboard her
17 too"?

18 A. Yes, sir, he does.

19 Q. Isn't that the exact word, the exact word that he used in
20 his fantasy role play?

21 A. Yes, sir, the exact word.

22 MR. BAUM: Could you go to the heading, Ms. Chen,
23 please.

24 Q. Now, in this chat, it was a chat with Moody Blues, correct?

25 A. Yes, sir.

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Walsh - cross

1 Q. In which he used the term "waterboarding," right?

2 A. Yes, sir.

3 Q. And that was a chat that you believed was real?

4 A. Yes.

5 Q. The date of this chat is, I believe, September 8th,
6 correct?

7 A. Yes, sir.

8 MR. BAUM: Ms. Katz, I apologize for going back and
9 forth. Could we go back to page 6 of Defendant Exhibit E6.
10 And get a full page, please.

11 Q. So the Moody Blues chat was September 8th and the
12 waterboarding reference was to Andria; this chat is February
13 27, well in advance of that one, isn't that right?

14 A. Yes, sir.

15 MR. BAUM: Can we go down, Ms. Katz, and highlight
16 lines 7:01:51 to the rest of the page.

17 Q. Now, in this fantasy chat, Mhal says: "I have to figure
18 out a way to just grab her from her house. It would be easier.
19 I need to stake it out and find out when the husband leaves."

20 Now, isn't that similar words that were used in the
21 chats that you described as real?

22 A. Similar, yes, sir.

23 MR. BAUM: Can we go to page 8, Ms. Katz. Can you
24 highlight from the top down to about line 7:36:07, including
25 that line. Thank you.

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Walsh - cross

1 Q. Now, in this fantasy chat there is a discussion about a
2 chain and pulley system, do you see that?

3 A. Yes, sir, I do.

4 Q. Isn't it a fact that in the chats you described as real,
5 there was a discussion about a chain and pulley system?

6 A. I believe there was, sir.

7 Q. Can you see line 7:33:35, there's a reference and that
8 reference is to Andria, correct?

9 A. Yes, sir.

10 Q. And that was one of your factors in determining whether a
11 chat is fantasy or real, wasn't it?

12 A. One of the factors, yes.

13 Q. And Andria is a real person, right?

14 A. She is, sir.

15 Q. And Andria was mentioned prominently in the chats that you
16 described as real, wasn't she?

17 A. She was, sir.

18 Q. And here she is in a fantasy chat in February 2012,
19 correct?

20 A. It appears that way.

21 MR. BAUM: Could you go to, I believe, the next page,
22 Ms. Katz. Can you highlight line 7:50:51 -- excuse me. Wait
23 one second. Yes, can you highlight line 7:51:46.

24 Q. Now, in this fantasy chat there is a discussion about using
25 the feet of a victim for soup, isn't there?

D2RUVAl5

Walsh - cross

1 A. Yes, sir.

2 Q. Isn't it a fact that that description of using feet as an
3 edible form of soup or as soup was used in the chats that you
4 described as real?

5 A. There was, sir.

6 MR. BAUM: Can you go to page 14, please, Ms. Katz.
7 Can you highlight from the beginning of the conversation -- one
8 second.

9 Q. Do you see a chat, April 29, 2012, Agent, at 2:57:44?

10 A. Yes, sir.

11 MR. BAUM: Can you highlight, Ms. Katz, from the first
12 line down to including line 2:49:01.

13 Q. Take a look at those lines, Agent. Do you see that in this
14 fantasy role play chat, Mhal is saying: "The other day I
15 visited my old high school and I was talking to one of the
16 teachers and a student walked in, the most desirable piece of
17 meat I have ever met and I was able to track down her Facebook.
18 Awesome. She is 18 years old. Kristen. And she is absolutely
19 delicious." Do you see that?

20 A. I do, sir.

21 Q. Hasn't you identified Kristen as an 18 year-old high school
22 student?

23 A. Yes, sir.

24 Q. And wasn't Kristen an 18 year-old high school student
25 referred to in virtually the same manner in one of the chats

D2RUVAl5

Walsh - cross

1 that you said was real?

2 A. She was.

3 Q. But this chat is fantasy, right?

4 A. Yes, sir.

5 MR. BAUM: On the bottom can you highlight the last
6 four lines.

7 Q. There is an additional statement by Mhal -- she plays on
8 the softball team. Didn't Kristen play on the softball team?

9 A. She does.

10 Q. And Mhal says, I will follow her home one day, correct?

11 A. He does.

12 Q. Aren't they virtually identical words in the chats that you
13 said are real?

14 A. Similar.

15 Q. So you have virtually the same person identified -- a real
16 person, clearly identified in the chats you described as
17 fantasy and the chats you described as real, right?

18 A. Yes.

19 MR. BAUM: Can you turn, Ms. Katz, to Exhibit E13,
20 please -- page 1. I'm sorry.

21 Q. Now, what is the subject of this chat -- it is an email,
22 isn't it?

23 A. Yes, sir, it is.

24 Q. What is the subject?

25 A. 4th of July menu.

D2RUVAl5

Walsh - cross

1 Q. This email included photographs, correct?

2 A. That's correct. Attachments at the bottom.

3 Q. And the photographs were of different women, correct?

4 A. Yes.

5 Q. And the title of the email is the 4th of July Menu, right?

6 A. The subject, yes, sir.

7 Q. I'm sorry. Can you read the names of the women who are
8 identified in this email?

9 A. Clarissa, Kristen C., Kristen B., Sylvia, Cecelia,
10 Kathleen.

11 Q. Now, Kathleen under picture number 6, she is described as
12 26 years old, correct, married, and has a baby daughter, right?

13 A. Yes, sir.

14 Q. Now, this fantasy email, do you know who that Kathleen is?

15 A. I believe it's his wife, sir.

16 Q. So here you have photos sent out of people who are
17 supposedly targets, put on a menu and this is a fantasy chat,
18 isn't it, a fantasy email?

19 A. It appears that way, yes, sir.

20 Q. Isn't it a fact that in your direct examination, you
21 identified a number of photographs -- of real women, some of
22 them right here in this fantasy email -- who were involved in
23 what you have described to be real chats?

24 A. Yes, sir.

25 Q. Isn't it a fact that in your direct examination, when you

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Walsh - cross

1 were talking about the real chats, you also talked about these
2 women being part of a menu to be eaten, do you recall that?

3 A. Yes, sir.

4 MR. BAUM: Can you, Ms. Katz, go to Defendant Exhibit
5 E4, page 3.

6 Q. This is another fantasy chat, correct?

7 A. Yes, sir.

8 Q. And this is between Mhal and Brenda Falcon, correct?

9 A. Yes, sir.

10 MR. BAUM: Can you highlight the first six or seven
11 lines of this chat, please, Ms. Katz.

12 Q. Now, starting on the first line, there is a reference by
13 Mhal: I would like to get my hands on a stun gun." Do you see
14 that?

15 A. I do, sir.

16 Q. In fact wasn't a similar reference made in one of the chats
17 you described as real, a reference to a stun gun?

18 A. Yes, sir. I believe he said he was able to get his hands
19 on a stun gun.

20 Q. And then in the lines following, there is a discussion
21 about skinning her, showing up unexpectedly, knocking her out,
22 tying up her hands raping her, abusing her -- plenty of rape
23 and suffering, do you see that?

24 A. I do, sir.

25 Q. Aren't they similar thoughts and words that were used in

D2RUVAl5

Walsh - cross

1 the chats that you described as real chats?

2 A. Similar, yes, sir.

3 MR. BAUM: Ms. Katz, can you highlight 9:24:20 to the
4 end of the page.

5 Q. In this fantasy role play, Mhal says: I've been obsessed
6 with her for six years. It's personal with her." Do you see
7 that?

8 A. I do.

9 Q. Isn't that identical to a statement that was made in one of
10 the chats that you described as real?

11 A. It is similar, sir, but I believe that the date was longer,
12 I believe it was the eight --

13 Q. Right. In the one that you described, Mhal said eight
14 years, right?

15 A. Yes, sir.

16 Q. But he also said, I've been obsessed with her, correct?

17 A. Yes, sir. He --

18 Q. He also said it is personal with her?

19 A. Yes, sir, he did.

20 Q. He also said that she is going to suffer, correct?

21 A. I believe he said that, sir.

22 Q. He also said a few lines down that she had moved away for
23 law school, correct?

24 A. Yes, sir.

25 Q. And do you know who that person is that he is talking

D2RUVAl5

Walsh - cross

1 about?

2 A. I do, sir.

3 Q. Isn't it Andria?

4 A. Yes, sir, it is.

5 Q. So now you have another fantasy chat in which a real person
6 is being discussed with identical language that was in one of
7 the chats that you described as real, correct?

8 A. Yes, sir.

9 MR. BAUM: In fact, could you go to the next page,
10 Ms. Katz, page 4. Just so that there is no mistake, can you
11 highlight the first three lines, Ms. Katz.

12 Q. Just so that there is no mistake, Mhal is talking about
13 Andria, right?

14 A. Yes, sir.

15 MR. BAUM: Can you highlight the caption at the top,
16 Ms. Katz.

17 Q. Now, this is a discussion that took place on February 9,
18 2012, isn't it?

19 A. Yes, sir.

20 MR. BAUM: Could you go to page 6 of this exhibit,
21 Ms. Katz.

22 Q. Now, there is a brief discussion, again, in a fantasy role
23 play on March 7, 2012? Do you see that, Agent?

24 A. I do, sir.

25 Q. And in this one, Mhal is saying, I was just planning out

D2RUVAL5

Walsh - cross

1 Andria's ordeal, is that correct?

2 A. Yes, sir.

3 Q. And in fact in what you described as the real chats, there
4 is similar language about planning out Andria's kidnapping,
5 correct?

6 A. Yes, sir.

7 MR. BAUM: Can you, Ms. Katz, go to defense E1,
8 please -- I'm sorry -- page 3.

9 Q. Now, Agent Walsh, this is another fantasy chat with an
10 individual by the name of Tim Chase, isn't it?

11 A. Yes, sir.

12 Q. And this is a conversation on January 23, 2012, isn't it?

13 A. Yes, sir.

14 Q. In this conversation Mr. Valle is having a fantasy role
15 play about kidnapping someone for the 27th, do you see that?

16 A. Yes, sir.

17 MR. BAUM: Can you go down and highlight 5:27:35,
18 Ms. Katz, please.

19 Q. And in this fantasy role play, there is also a discussion
20 about a price, right?

21 A. Yes, sir.

22 Q. And the discussion is about Mhal saying, I can lower it
23 down to \$4,000, do you see that?

24 A. I do, sir.

25 Q. Wasn't there an identical negotiation with Mike Vanhise

D2RUVAl5

Walsh - cross

1 about 4,000 versus 5,000 dollars?

2 A. Similar, yes, sir.

3 MR. BAUM: Could you go to page P11, please.

4 Q. And this is, Agent, a conversation with Tim Chase on March
5 11, 2012.

6 MR. BAUM: Now, Ms. Katz, can you highlight from line
7 4:33:21 down to 4:34:07, including that line.

8 Q. Now, in this chat there is a discussion in which Mhal is
9 saying: Sorry about Danielle. She was riskier than I
10 originally thought. Too many people around all hours of the
11 day."

12 And the answer is: "That's cool. No problem." Do
13 you see that?

14 A. I do, sir.

15 Q. In this fantasy role play chat, Mr. Valle is saying, I
16 decided not to kidnap Danielle because it was too risky. He
17 didn't want to get caught, do you see that?

18 A. Yes, sir, I do.

19 Q. In fact in what you have described as the real chats,
20 weren't there statements about the risk involved in kidnapping
21 and Mr. Valle saying I don't want to be caught?

22 A. Yes, sir, there were.

23 Q. So this factor, this element for your consideration is very
24 similar to what you found in the real chats?

25 A. Yes, sir, it is similar.

D2RUVAL5

Walsh - cross

1 MR. BAUM: In fact, Ms. Katz, can you highlight 4:36,
2 I think it is 56 to the end of the page.

3 Q. Now, in this part of the fantasy role play chat, Mhal is
4 discussing with Tim Chase various prices for women? Do you see
5 that?

6 A. I do, sir.

7 Q. And he says that low risk results in low prices, correct?

8 A. Yes, sir.

9 Q. And he mentions Sally for 3500, Maureen for 4,000,
10 Christina, 5,000 -- Sally, Maureen and Christina are real
11 people?

12 A. They are, sir.

13 Q. He mentions Allison for 6,000, but he can get down to 5.
14 And then he mentions Christina for 4,000. And then he says:
15 "That's all I have as far as low risk bargains." Do you see
16 that?

17 A. I do, sir.

18 Q. Isn't this factor meaning bargaining over the cost of
19 kidnapped women very similar to what was found in Mike
20 Vanhise's chats which you deemed to be real?

21 A. Similar, yes, sir.

22 MR. BAUM: Could you turn to page 12, Ms. Katz,
23 please. This is a chat on March 11 at 5 o'clock p.m. Can you
24 highlight, Ms. Katz, lines 4:47 down to 4:49:15.

25 Q. In this fantasy chat, there appears to be an agreement

D2RUVAL5

Walsh - cross

1 between Mr. Valle and Tim Chase saying that Mr. Valle is going
2 to kidnap Sally. Do you see that?

3 A. I do, sir.

4 Q. And Mr. Valle says: I'll get to work watching her, but she
5 should be a cinch to grab." Do you see that?

6 A. I do, sir.

7 Q. And the chats that you termed to be real, there was also an
8 agreement between the parties about someone Mr. Valle would
9 kidnap, wasn't there?

10 A. There was also agreement, yes, sir.

11 Q. In the chats you deemed to be real, just like here,
12 Mr. Valle said that I'll start watching her, right?

13 A. In some of them he may have, yes, sir.

14 Q. Just like in the role play chat.

15 MR. BAUM: Can you turn to page 14 of the chats with
16 Tim Chase which is a chat on March 11, 2012 at 5:30:08. Can
17 you highlight, say, the first half of the page down to 5:25:00.

18 Q. In this fantasy role play chat, Mr. Valle says: "There's a
19 good possibility that I'm going to do this this coming Friday."
20 Do you see that?

21 A. Yes, sir.

22 Q. In fact, in some of the chats you have identified as real
23 chats, he also said things like, I'm going to do this in two
24 days, correct?

25 A. I don't recall that particular time frame, sir.

D2RUVAL5

Walsh - cross

1 Q. Now, in this one, there is a discussion at 5:21:41 where
2 Mr. Valle says: "I will leave her clothes on, but I'm going to
3 tie her up barefoot in case she starts kicking and shit." Do
4 you see that?

5 A. I do, sir.

6 Q. Wasn't there a conversation with Mike Vanhise when Mike
7 Vanhise said make sure she doesn't wear any shoes because she
8 could start kicking? Do you recall that?

9 A. I do, sir.

10 Q. So here in the fantasy role play comes a scenario that was
11 very similar to the one in the Mike Vanhise discussion which
12 you termed to be real, right?

13 A. Yes, sir.

14 MR. BAUM: Could you turn to the next page, Ms. Katz,
15 please. This is a very brief discussion on March 23 at
16 5:56:31.

17 Q. Now, in this one, do you see Mhal saying: "Sally is
18 sleeping right now for the last time in her bed. Tomorrow she
19 is yours let me know if we are good to go and you've made your
20 preparations." So here, Mr. Valle is supposedly saying that
21 tomorrow is the day that he is going to kidnap Sally, do you
22 see that?

23 A. I do, sir.

24 MR. BAUM: Can you go to page 17, Ms. Katz, which is a
25 conversation April 22 at 3:25. Can you highlight the first

D2RUVAL5

Walsh - cross

1 half of the page.

2 Q. Now, in this part of the conversation, this fantasy role
3 play conversation with Tim Chase in reference to Sally, there's
4 a discussion in which Mr. Valle is alleged to have said, "Grab
5 Sally. Are you ready for her?" Do you see that?

6 A. I do, sir.

7 Q. He says that he had been watching her, do you see that?

8 A. Yes, sir.

9 Q. And isn't that similar to statements that were made by
10 Mr. Valle which you termed to be the real chats?

11 A. There could be, sir, but I don't recall this specific
12 thing.

13 MR. BAUM: Ms. Katz, can you highlight the one line
14 3:19:11.

15 Q. Now Mhal says here: "I will get her loaded up in the back
16 of my van." Do you see that?

17 A. I do, sir.

18 Q. In fact in some of the chats that you described as real,
19 Mr. Valle is alleged to have said that he is going to kidnap
20 people and put them in his van, right?

21 A. I don't recall that specific language, sir.

22 Q. Well, he certainly -- I think you have already testified to
23 this -- said in some of the chats that he had a van -- in the
24 real chats, do you recall that?

25 A. I believe he did, yes.

D2RUVAL5

Walsh - cross

1 Q. In fact you know he hasn't got a van, right?

2 A. That's correct.

3 THE COURT: Ladies and gentlemen, we will take our mid
4 afternoon break.

5 Don't discuss the case.

6 Keep an open mind.

7

8 (Continued on next page)

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D2RUVAL5

Walsh - cross

1 (Jury not present)

2 THE COURT: How much longer do you expect to be,

3 Mr. Baum?

4 MR. BAUM: On the fantasy chats, not that much longer,
5 but then I am going to the real chats.

6 THE COURT: Will that take up the rest of the day?

7 MR. BAUM: I do believe so.

8 THE COURT: Don't look at that clock.

9 MR. BAUM: That doesn't tell me anything. I thought
10 we had a lot of time when I looked at it.

11 I think it is fair to say that we will go the rest of
12 the day.

13 THE COURT: Take 10 minutes.

14 (Recess)

15
16 (Continued on next page)

D2RUVAL5

Walsh - cross

1 (Jury present)

2 THE COURT: Mr. Baum, you made reference to Defendant
3 Exhibit E13 that was actually not offered by you. Would you
4 like to offer it now.

5 MR. BAUM: Yes. I thought I did. I apologize.

6 THE COURT: Any objection to Defense Exhibit E13?

7 MS. WAXMAN: No, your Honor.

8 THE COURT: Then Defense Exhibit E 13 is received.

9 (Defendant Exhibit E13 received in evidence)

10 MR. BAUM: Thank you, your Honor.

11 BY MR. BAUM:

12 Q. Agent Walsh, if we may go back to the chats with Tim Chase,
13 which is E1.

14 MR. BAUM: Page 17, Ms. Katz.

15 Now, Ms. Katz can you highlight 3:13:03 -- actually,
16 to put in context, can you highlight the top to that line.

17 Q. Now, Agent Walsh, in line 3:13:03, Mhal says in reference
18 to Sally: "She is knocked out right now, tied up in my
19 basement," correct?

20 A. Yes, sir.

21 Q. Sally is in fact Sally Kane, correct?

22 A. I believe so, sir.

23 Q. And Sally Kane is somebody that the FBI identified and
24 spoke to?

25 A. We did.

D2RUVAL5

Walsh - cross

1 Q. Was Sally Kane ever kidnapped, locked up and tied up in any
2 basement?

3 A. No, sir.

4 MR. BAUM: Ms. Katz, can you go to Exhibit E10, page
5 1.

6 Q. This is a fantasy chat between Mr. Valle and Meandharris,
7 is that correct, Agent Walsh?

8 A. It appears so, yes, sir.

9 MR. BAUM: Ms. Katz, can you highlight from around the
10 middle line 6:42:36 to the bottom of the page.

11 Q. Starting at line 6:42:36, Agent. There is a discussion in
12 which Mhal says -- he is asked how many have you done and Mhal
13 says, in my imagination. And Mhal goes on to say "but none for
14 real, never for real, it is fun to chat and push the envelope."
15 Do you see that?

16 A. I do, sir.

17 Q. Was that one of the reasons that you determined that this
18 conversation with Meandharris was a fantasy role play?

19 MS. WAXMAN: Objection.

20 THE COURT: Overruled.

21 A. Yes.

22 Q. Then, do you see where Meandharris at line 6:43:47 asked
23 Mr. Valle: "Would you do it is you had the chance," and
24 Mr. Valle says, "I don't think so." Do you see that?

25 A. I do, sir.

D2RUVALL5

Walsh - cross

1 Q. Was that another reason why you determined that this was a
2 fantasy role play?

3 A. Yes, sir.

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5 (Continued on next page)

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D2R6VAL6

Walsh - cross

1 MR. BAUM: Could you go to the next page, page 2, Ms.
2 Katz, which is a chat of April 22nd at 6:54? Can you highlight
3 Line 64618, about the fourth line from the top?

4 Q. Do you see at this point Mr. Valle says, If I were
5 absolutely 100 percent sure to get away with it, I think I
6 would think about it; do you see that?

7 A. I do, sir.

8 Q. In fact, in some of the chats you identified as real,
9 Mr. Valle also says if I thought I could get away with it, I
10 would do it. Do you recall that?

11 A. I do, sir.

12 Q. Yet, this is a fantasy chat, correct?

13 A. Correct, sir.

14 MR. BAUM: Can you go to page 3, Ms. Katz?

15 Q. Now, this is a chat again with Meand Harris, a fantasy
16 role-play on April 22nd at 7:03:10. Do you see that?

17 A. I do, sir.

18 Q. Do you see that in this chat Mr. Valle says --

19 MR. BAUM: Can you highlight line 6:55:45 and the next
20 line, Ms. Katz?

21 Q. Mr. Valle says, I have a place up in the mountains. No one
22 around for a half mile. Do you see that?

23 A. I do, sir.

24 Q. This is what he says in a fantasy role-play, but isn't it a
25 fact that he said the same exact thing in one or more of the

D2R6VAL6

Walsh - cross

1 chats you've identified as real chats?

2 A. A similar thing, yes, sir.

3 MR. BAUM: Can you highlight the last half of the
4 page, Ms. Katz?

5 Q. Now, in this chat also isn't it a fact that Mr. Valle
6 identifies real people, Christina, Carissa and Kimberly, do you
7 see that, Agent Walsh?

8 A. I do, sir.

9 Q. Wasn't that one of the factors that you reviewed to
10 determine the difference between a fantasy and reality chat?

11 A. I do, sir.

12 Q. This one is fantasy and the real chats he mentions the same
13 women, correct?

14 A. He does, sir.

15 MR. BAUM: Can you go to page 7, Ms. Katz, please?

16 Q. This is a chat on April 24th, a fantasy role-play with
17 Meand Harris.

18 MR. BAUM: Can you highlight 17:24 and the next very
19 line, 17:24:03 and 17:24:23?

20 Q. This is a conversation between Mr. Valle and Meand Harris
21 in which Ms. Harris says, There will be a lot of torture,
22 crucifixion and spitting.

23 The more suffering the better.

24 Now, in the chats you have identified as real, there
25 was also discussion about torturing and placing a woman on a

D2R6VAL6

Walsh - cross

1 spit, correct?

2 A. There was, sir.

3 Q. In fact, the chats you described as real as opposed to this
4 fantasy role-play chat, Mr. Valle also said the more suffering
5 the better, correct?

6 A. He did, sir.

7 MR. BAUM: Can you turn to page 10, Ms. Katz. This is
8 a chat on April 26th with Meand Harris at 5:55:37. Can you
9 highlight for us, Ms. Katz, the bottom seven lines starting
10 with 5:54:32.

11 Q. Now, in this fantasy role-play chat MHa152, Mr. Valle,
12 says, I spotted another potential victim today. Very
13 desirable. I went to visit my old high school and I was
14 speaking to a former teacher of mine and he introduced me to
15 one of the students. She is 18 years old.

16 Do you see that?

17 A. I do, sir.

18 Q. Isn't that virtually identical language to one of the
19 fantasy role-play chats we just discussed?

20 A. It is, sir.

21 Q. And isn't that in reference to Kristen Ponticelli?

22 A. I believe so, sir.

23 Q. And isn't that a same reference that is made in one of the
24 chats you've described as real?

25 A. I believe so, sir.

D2R6VAL6

Walsh - cross

1 MR. BAUM: Could you turn to page 16 please of Meand
2 Harris. April 25th, 2012 a chat at 7:08:12. Can you highlight
3 the last five lines, please?

4 Q. Now, in this chat Meand Harris asks Mr. Valle, Where are
5 you? And Mr. Valle says, In New York. And then he goes on.
6 Meand Harris says, Do you have a cellar in your country house.
7 And Mr. Valle says, A basement that I am working on.

8 Do you see that portion?

9 A. I do, sir.

10 Q. Isn't that in fact similar statements made by Mr. Valle in
11 what you described to be real chats?

12 A. The basement part, yes.

13 Q. That is what I meant. And also a house in New York
14 somewhere?

15 A. Yeah. And the other chats, sir, he said a house in the
16 country.

17 MR. BAUM: Can you go to page 23, please, Ms. Katz?
18 Can you highlight the first eight lines.

19 Q. Now in this chat, which took place on July 17, he is still
20 talking to Meand Harris, correct?

21 A. Yes, sir.

22 Q. In this chat he reminds Meand Harris at 8:45:25 that we
23 chatted about kidnapping and eating a girl.

24 Do you see that?

25 A. I do, sir.

D2R6VAL6

Walsh - cross

1 Q. In fact, this is a fantasy role-play chat, correct?

2 A. I believe so, sir.

3 Q. And in the real chats, what you've described as real chats,
4 he also chats about kidnapping and eating a girl, correct?

5 A. He does, sir.

6 MR. BAUM: Can you go to page 25, Ms. Katz. Another
7 chat with Meand Harris on July 29. Highlight the last three
8 lines.

9 Q. Now, in this fantasy chat Mr. Valle says, And if you are
10 wondering, it is all fantasy. I just enjoy pushing the
11 envelope a bit.

12 Do you see that?

13 A. I do, sir.

14 Q. Was that one of the reasons why you determined that this
15 was a fantasy chat?

16 A. Yes, sir.

17 Q. Now, wasn't it your testimony that in some of the chats
18 despite the fact that the person didn't announce a fantasy, you
19 still believed it was fantasy role-play, correct?

20 A. In some of them it is a possibility, yes.

21 Q. That is because you were employing the factors that you
22 discussed previously?

23 A. Yes.

24 Q. So would it be fair to say that if Mr. Valle were talking
25 about a bunch of things even though he didn't say this is

D2R6VAL6

Walsh - cross

1 fantasy you know, I am just making this stuff up because I am
2 pushing the envelope, even if he didn't say that, it still
3 might be a fantasy chat, right?

4 A. In some of those other conversations that we identified,
5 yes, sir.

6 Q. Well, I am asking you generally using your criteria that
7 you articulated. What I am saying is that even if Mr. Valle
8 did not announce that I am engaged in fantasy, based on the
9 criteria you have articulated it could still be a fantasy
10 role-play chat?

11 A. I believe --

12 MS. WAXMAN: Objection, your Honor. I thought the
13 question was very confusing.

14 THE COURT: Do you understand the question?

15 THE WITNESS: If you can repeat it. Yes, sir.

16 Q. Okay. You articulated a number of factors for determining
17 whether a chat is fantasy or real, right?

18 A. Yes, sir.

19 Q. One of the factors was that the person says, Hey, this is
20 fantasy and I am just pushing the envelope. You know, I like
21 to talk about cannibalism and suffering. That was one of the
22 factors?

23 A. If they mention the actual word fantasy.

24 Q. Right. Now, didn't you also testify earlier that even if
25 that was not mentioned, it still might be fantasy, right?

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Walsh - cross

1 A. For those ones that we separated out, yes, sir.

2 Q. No. No. I am not asking about the ones separated out. I
3 am asking you if using the criteria that you've articulated
4 wasn't necessary to say in the chat this is fantasy for you to
5 find that it wasn't?

6 A. It wasn't necessary, no, sir.

7 Q. Okay. That was my question.

8 MR. BAUM: Can you go to Defense Exhibit E12, Ms. Katz
9 and Agent Walsh. E12.

10 Q. Now, this fantasy role-play conversation between Mr. Valle
11 and an individual by the name of Spin9970; correct?

12 A. Yes, sir, it is.

13 MR. BAUM: Ms. Katz, can you highlight lines 4:58:44
14 to 5:00:12.

15 Q. Now, in this fantasy role-play Mr. Valle is again talking
16 about Andria, correct?

17 A. Yes, sir.

18 Q. Now, he says in this fantasy role-play, Andria has been my
19 primary target. I have known her for seven years, right?

20 A. He does, sir.

21 Q. Now, in fact in one chat he said I've known her for eight
22 years. Do you recall that?

23 A. I do, sir.

24 Q. In another chat he said, I've known her for six years,
25 correct?

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Walsh - cross

1 A. He did, sir.

2 Q. Now, in this chat he says I've known her for seven years,
3 correct?

4 A. He does, sir.

5 Q. In here in this chat at the bottom he said, Yeah, I have to
6 watch her house for a while. I don't know what her husband
7 does. Isn't that a reference that was made in one of the chats
8 that you've described as real?

9 A. The reference of her husband?

10 Q. The reference of her husband and that he had been watching
11 the house because of the husband?

12 A. He did refer to her husband and he did say that he would
13 have to watch the house, yes.

14 MR. BAUM: Could you turn to page 3, Ms. Katz, May 16,
15 2012. Can you highlight two lines 6:01:06 and 6:01:37.

16 Q. Here there is a discussion about Andria being cooked and
17 MHa152 says, My mouth waters every time I think about it.

18 Do you recall his saying something, if not identical,
19 similar to that in a discussion about Andria being cooked in
20 one of your real chats?

21 A. I do, sir.

22 MR. BAUM: Ms. Katz, can you highlight three lines,
23 6:02:21 to 6:02:54?

24 Q. Here on these three lines there is a discussion about
25 Mr. Valle and MHa152 working with someone else. Do you see

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Walsh - cross

1 that.

2 A. Yes, sir.

3 Q. Mr. Valle says, Great. He would like to work with somebody
4 else. Isn't that a similar reference made in the real chats
5 that you've discussed about Mr. Valle wanting to work with
6 other people?

7 A. Yes. He did discuss wanting to work with other people.

8 Q. This chat is a fantasy role-play, isn't it?

9 A. Yes, sir.

10 MR. BAUM: Ms. Katz, can you turn to page 11?

11 Q. Now, this again is a fantasy role-play chat between MHa152,
12 Mr. Valle, and Spin9979 on June 12th, 2012.

13 Do you see that?

14 A. I do, sir.

15 MR. BAUM: Ms. Katz, can you highlight line 6:26:06
16 and 6:26:15?

17 Q. Now, in this fantasy role-play Mr. Valle says that he wants
18 to use chloroform during the plan of the kidnapping. Do you
19 see that?

20 A. I do, sir.

21 Q. In fact, isn't that something that Mr. Valle said on
22 numerous occasions in the chats you've also described as real?

23 A. He discussed chloroform, yes, sir.

24 Q. And this is a fantasy role-play chat, isn't it?

25 A. Yes, sir.

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Walsh - cross

1 MR. BAUM: Ms. Katz, can you go to Defense Exhibit
2 E11. Can you go, please, to page 4? Sorry, can you go to page
3 5, Ms. Katz?

4 Q. Now, this is a fantasy role-play with another individual
5 and Mr. Valle, isn't that correct, Agent Walsh?

6 A. Yes, sir.

7 Q. In fact, this is a fantasy role-play with an individual by
8 the name of or the e-mail screen name of Gertrude H, is that
9 correct?

10 A. Yes, sir.

11 MR. BAUM: Can you go to line 7:27:24 and the two
12 lines under that, please, Ms. Katz?

13 Q. Now, in this fantasy role-play Mr. Valle says, I will carry
14 the bag with the ropes and duct tape. When you knock the young
15 one out, give me the mallet and I will take care of the other
16 one.

17 Now, isn't it a fact that that is a fantasy role-play?

18 A. Yes, sir.

19 Q. Do you remember the list that Mr. Valle had that was put
20 into evidence?

21 A. The e-mail from, sir.

22 Q. Yes. In this list Mr. Valle included duct tape and rope.
23 Do you remember that?

24 A. He did, sir.

25 Q. So in this fantasy chat on May 1st he talked about using

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Walsh - cross

1 duct tape and rope and that appears in what you've described as
2 his, I think, to-do list. Do you recall that?

3 A. Sir, are you referring to the blueprint?

4 Q. Yes. Do you recall that?

5 A. Yes, sir. He mentioned duct tape and rope.

6 Q. And you believed that that blueprint was real?

7 A. I do, sir.

8 MR. BAUM: Can you turn to page 6, Ms. Katz?

9 Q. This is a conversation on May 1st between MHal52 and
10 Gertrude H, which is a fantasy role-play.

11 MR. BAUM: Can you highlight, Ms. Katz, line 7:42:54
12 and the next two lines?

13 Q. Now, you see in this one MHal52 says, I am taking this
14 one's shoes off. I don't want these heels kicking me when she
15 wakes up. Do you see that?

16 A. I do, sir.

17 Q. Isn't it a fact in this fantasy role-playing reference to
18 taking the shoes off, it was the same kind of conversation that
19 he had with Mike Vanhise about taking the shoes off?

20 A. Yes, sir, I recall this.

21 MR. BAUM: Ms. Katz, can you go down to line 7:48:26
22 and the next four lines after that, three lines after that?

23 Q. And in this fantasy role-play Mr. Valle is talking about
24 Andria Cordez, 26 years old and assistant district attorney.
25 In fact, that is Andria who has been identified as a real

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Walsh - cross

1 person, right?

2 A. That is not the correct last name but, yes, sir.

3 Q. But doesn't that represent Andria Nobel?

4 MS. WAXMAN: Objection, your Honor.

5 Q. In your opinion does it represent Andria?

6 MS. WAXMAN: Objection.

7 THE COURT: Overruled.

8 A. Andria Condez Nobel. Yes, sir.

9 Q. Yes. Might the "R" be a typo?

10 MS. WAXMAN: Objection.

11 THE COURT: Sustained.

12 Q. So in this fantasy role-play this is a reference to a real
13 person, correct?

14 A. This particular person, I am not aware of Cordez.

15 Q. You are not aware of Andria Cordez, but you are aware of
16 Andria, right?

17 A. I am, sir.

18 Q. And in using Andria Cordez, is it possible that Mr. Vanhise
19 didn't want to use the correct last name so he didn't identify
20 a real person?

21 MS. WAXMAN: Objection.

22 THE COURT: Sustained.

23 MR. BAUM: I am sorry. Mr. Valle. The question was
24 Mr. Valle. That is my only change, Judge.

25 THE COURT: Right. Are you objecting?

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Walsh - cross

1 MS. WAXMAN: I am objecting.

2 THE COURT: Sustained.

3 MR. BAUM: Same objection, I understand.

4 Can you go to page 19, Ms. Katz. Can you highlight,
5 please, 7:57:49 and the three lines that follow?

6 Q. This is still a fantasy role-play between Mr. Valle and
7 Gertrude H, isn't it?

8 A. Yes, sir.

9 Q. And in the lines that are highlighted, Mr. Valle is talking
10 about a new recipe, a girl I am dying to see cooked, Andria.
11 Do you see that?

12 A. I do, sir.

13 Q. Isn't it a fact that Andria is a reference that was also
14 made in what you described as in the real chats?

15 A. Yes, sir.

16 Q. Isn't it a fact that Mr. Valle made references to cooking
17 Andria and other women in the real chats?

18 A. Yes, sir.

19 MR. BAUM: Your Honor, at this time I am going to move
20 to chats that were introduced to the government. Should I do
21 this or would this be a good time to take a break?

22 THE COURT: You can go on to that.

23 MR. BAUM: Thank you, your Honor.

24 BY MR. BAUM:

25 Q. Agent Walsh, do you have the chats in front of you that

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1 were introduced by the government?

2 A. I do, sir.

3 Q. Thank you. Can you turn to the chats involving Mike
4 Vanhise, which is starting with Government exhibit 430?

5 A. Actually, I don't have that folder in front of me.

6 MR. BAUM: Oh, do you have that, Ms. Waxman?

7 MS. WAXMAN: Yes. I will get it.

8 THE WITNESS: Thank you, ma'am.

9 Q. Now, this series of government exhibits are e-mails,
10 correct?

11 A. Yes, sir, they are.

12 Q. And they are e-mails between Mr. Valle and an individual
13 you've identified as Mike Vanhise, aren't they?

14 A. That's correct, sir.

15 Q. These e-mails are one of the three out of 24 that you say
16 is real, correct?

17 MS. WAXMAN: Objection.

18 THE COURT: Sustained.

19 Q. Is this one of the e-mails that you've identified as real?

20 A. Yes.

21 Q. And this is an e-mail that is one of the 24 participants
22 that you said you made divisions between real and fantasy?

23 A. Approximately 24.

24 Q. Well, that is what you said, 24?

25 A. I said approximately.

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Walsh - cross

1 Q. Approximately.

2 On Government Exhibit 430 when we start with the first
3 e-mail, which is starting with the back, which is an e-mail on
4 Friday, January 27th at 1:11 p.m., okay.

5 MR. BAUM: Can we get that up? Thank you.

6 Q. So it starts out where Mr. Vanhise is e-mailing to MHa152
7 and says, Please get back to me. Do you see that?

8 A. Yes, sir.

9 MR. BAUM: Then if we can have the next e-mail.

10 Q. Then we see it is saying, Hey, it is Girlmeat Hunter. Do
11 you see that?

12 A. I do, sir.

13 Q. In that e-mail is that the name that Mr. Valle used?

14 A. One of them. Yes, sir.

15 Q. That is the name he used on Darkfetishnet, right?

16 A. It is, sir.

17 MR. BAUM: Can we go to the very next e-mail, which is
18 at 1:11 p.m.?

19 Q. Now, in this e-mail, and this is one of the first e-mails
20 that you have between Mr. Valle and Mike Vanhise, correct?

21 A. Yes, sir.

22 Q. Now, in this early e-mail of January 27th, Mike Vanhise
23 says, Are you interested in trading. Do you see that?

24 A. I do, sir.

25 Q. And what do you interpret that to mean?

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Walsh - cross

1 MS. WAXMAN: Objection, your Honor.

2 THE COURT: He testified on direct about his
3 interpretation of various e-mails.

4 MR. BAUM: Yes.

5 MS. WAXMAN: Your Honor, I think that on direct this
6 witness interpreted as to which people, individuals that
7 Mr. Valle was communicating about based on his review of many,
8 many e-mails. This is a different question.

9 MR. BAUM: No. I think he interpreted what words
10 meant.

11 MS. WAXMAN: Those words included abbreviations. Pic,
12 is picture. This is a different question that Mr. Baum is
13 asking.

14 THE COURT: I will allow Mr. Baum to inquire of the
15 witness whether he has an understanding.

16 Q. Do you have an understanding of what that term trading
17 meant?

18 A. Sir, I can only assume trading either an object or a
19 person.

20 Q. Okay. Then there is a response from Mr. Valle, right?

21 A. Yes.

22 Q. Mr. Valle says, Honestly, I am in it for the cash and I
23 have a few women I plan on grabbing for myself, correct?

24 A. Yes, sir.

25 Q. In the fantasy e-mails that we went through, at least some

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Walsh - cross

1 of the ones we went through, Mr. Valle also talks about trying
2 to kidnap women and selling them for cash, doesn't he?

3 A. He does, sir.

4 MR. BAUM: Now, can we go to the next one, please,
5 Ms. Chen.

6 Q. Now, Mike Vanhise asks a question. Do you see that? He
7 asks two questions, right?

8 A. Yes, sir.

9 Q. One of the questions is, Do you do payments. Do you see
10 that?

11 A. I do, sir.

12 Q. Are you going to tell this jury that a question to a
13 kidnapper --

14 MS. WAXMAN: Objection, your Honor.

15 Q. -- is real --

16 MS. WAXMAN: Objection.

17 THE COURT: I need to hear the whole question first.

18 Go ahead, Mr. Baum.

19 Q. You testified that you believed this is a real discussion,
20 not a fantasy role-play, correct?

21 A. Yes, sir.

22 Q. And you see that Mike Vanhise asks a question to a person
23 whose supposedly trying to sell a woman. Do you do payments,
24 do you see that?

25 A. I do, sir.

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1 Q. And are you telling the jury that you believe that this is
2 a real statement that a kidnapper and his coconspirator would
3 make to each other?

4 MS. WAXMAN: Objection.

5 THE COURT: Overruled.

6 A. I do believe this.

7 MR. BAUM: Can we go to the next one, please?

8 MS. WAXMAN: Objection.

9 MR. BAUM: He said yes.

10 MS. WAXMAN: He was interrupting the witness.

11 THE COURT: Did have something else you wanted to say,
12 Agent?

13 THE WITNESS: No, sir.

14 MR. BAUM: Can we go to the next one?

15 Q. Now, Mr. Valle says COD, cash on delivery. Do you see
16 that?

17 A. Yes, sir.

18 Q. That is part of this real discussion, not a role-play,
19 right?

20 A. Yes, sir.

21 MR. BAUM: Can we go to a message from Mike Vanhise in
22 this exhibit to Mr. Valle at 1:37 p.m.?

23 Q. So in response to Mr. Vanhise -- to Mr. Valle's supposedly
24 saying, Cash on delivery, you have Mr. Vanhise saying, I don't
25 have the money right now, but as soon as I do we'll let you

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Walsh - cross

1 know. How much are you asking. Do you see that?

2 A. I do, sir.

3 Q. Then there is a negotiation, correct?

4 A. I can't see the next e-mail.

5 MR. BAUM: Can we go to the next one, please?

6 Q. MHal52 says or Hal M says, \$4,000. Do you see that?

7 MS. WAXMAN: Objection, your Honor.

8 THE COURT: What is the objection?

9 MS. WAXMAN: I withdraw it, your Honor.

10 Q. Do you see that Hal M says, \$4,000?

11 A. I do, sir.

12 Q. Isn't that identical in both figure and statement made in
13 several of the fantasy role-plays that we just discussed?

14 A. The 4,000-dollar price?

15 Q. Yes.

16 A. Yes, sir. It is the same.

17 THE COURT: Mr. Baum, it is 5:00. If you want to
18 break here, you can.

19 MR. BAUM: Thank you, Judge.

20 THE COURT: Ladies and gentlemen, we'll resume at 9:30
21 tomorrow morning. In the meantime, don't discuss the case with
22 anyone. Keep an open mind. There is more evidence to hear. I
23 wish you a pleasant evening and will see you tomorrow.

24 (Jury excused)

25 (Continued on next page)

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Walsh - cross

1 (In open court; jury not present)

2 THE COURT: I wanted to get a sense of what tomorrow
3 is going to look like. Mr. Baum, how much longer do you expect
4 to be with this witness?

5 MR. BAUM: I expect to go through the chats between
6 Ali Khan, we're almost finish with Mr. Vanhise, and then Moody
7 Blues. It could last an hour. Then just a few brief questions
8 and then I will be finished.

9 THE COURT: Mr. Jackson, any sense of how long
10 redirect might go?

11 MS. WAXMAN: Your Honor, I think redirect might be an
12 hour of this witness.

13 THE COURT: So it sounds like we should assume that
14 much in the morning will be consumed with this witness?

15 MS. WAXMAN: I think that is right, your Honor.

16 THE COURT: What is going to happen after that?

17 MS. WAXMAN: After Agent Walsh finishes testifying,
18 the government is going to call Alissa Frisca. I expect to
19 have her on maybe a half hour at the most and depending on the
20 cross we may have some redirect.

21 THE COURT: Let's talk about Ms. Frisca because at
22 some point earlier today I was handed some documents. Can you
23 tell me what they are?

24 MR. JACKSON: Yes, your Honor. Those are a set of
25 documents that are files that were recovered from Mr. Valle's

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1 computer that are documents that were created by him. What
2 those documents indicate is -- the first one is a list.

3 THE COURT: Do you have these, Ms. Gatto?

4 MS. GATTO: I don't have copies, but the government
5 has shown them to me.

6 MR. JACKSON: So each one of them, your Honor,
7 Mr. Flatley is able to see the creation date of the document
8 and then the point at which it was placed into the recycling
9 bin or otherwise moved to a file. Those documents were created
10 in the summer of 2011. Two of them are lists of women with a
11 number of terms that Mr. Valle has placed in there that relate
12 to different concepts.

13 The third one is an image, sort of a stray image that
14 was left on the computer of Mr. Valle's DFN profile. It shows
15 on the DFN profile at the date that is identified on the
16 document, which is also in 2011, Mr. Valle was apparently
17 uploading pictures of Alissa in connection with this Girlmeat
18 Hunter profile.

19 THE COURT: So first I have this list of 90 -- it
20 looks like 90 women and then there are terms next to each one.
21 Is there going to be any evidence about what the terms mean or
22 what their significance is?

23 MR. JACKSON: Your Honor, I think that we're not going
24 to offer specific evidence about what the terms mean. We're
25 not likely to. Some of them I think sort of self-identify as

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Walsh - cross

1 terms that are related to potential violence or kidnapping. So
2 I expect to have just Mr. Flatley identifying those documents
3 and explaining where they came from.

4 THE COURT: So we have Alissa Frisca listed in this
5 first document, which bears the heading Windows history recycle
6 bin file and next to her name it says Elizabeth. So I take it
7 you don't expect to be offering any evidence about what that
8 reference to Elizabeth means?

9 MR. JACKSON: No, your Honor.

10 THE COURT: So with respect to this first document,
11 the list of 90 women, I think you told me that Mr. Flatley will
12 testify that the list was created in, did you say, the summer
13 of 2011? Because handwritten on the document is the statement
14 created June 20th, 2011. Is that what he is actually going to
15 say?

16 MR. JACKSON: Yes, your Honor.

17 THE COURT: Mr. Flatley is going to testify the
18 document of the list of 90 women was created on June 20th,
19 2011. What inference do you wish me to draw from that?

20 MR. JACKSON: Your Honor, we wish the Court to draw
21 that -- there is the second document where Mr. Frisca is
22 identified also.

23 THE COURT: So why don't we talk about the two lists
24 at the same time. On the second document is some kind of
25 handwritten notation of 7-2-2011.

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Walsh - cross

1 MR. JACKSON: Which is also the date on which
2 Mr. Flatley testified it was created.

3 THE COURT: Okay. That is a list of 35 women and
4 again there are terms next to their names. Also, it is not
5 immediately obvious to me what the significance of the terms
6 is. I am looking to see if Ms. Frisca's name is included on
7 this list. Yes, she is No. 13. Next to her name it reads
8 Cooking Show June 1st. There is not going to be any evidence
9 on what that means?

10 MR. JACKSON: No, your Honor.

11 THE COURT: So I have the two lists. One is
12 June 20th, 2011. The other is July 2nd, 2011. Then I have the
13 documents relating to the Darkfetishnetwork, which you told me
14 reflects photographs that Mr. Valle has posted on the
15 Darkfetishnetwork site as of, I gather, September 16th, 2011
16 because that is handwritten on the top.

17 Now, I think you've said that Ms. Frisca's photograph
18 was posted. Do you know what page that is on?

19 MR. JACKSON: I believe it is the fourth, your Honor.
20 I am not 100 percent sure.

21 THE COURT: Page 4 has a reference to Marissa and
22 Lacey. I don't see any other names mentioned.

23 MR. JACKSON: I am sorry, your Honor. I haven't had a
24 chance to make an additional copy of that document.

25 THE COURT: Just give me a moment and I will see if I

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1 can find the page. Yes, on page 24 there are references to
2 Alissa. Pages 24 and 25.

3 Now, is it possible or was Mr. Flatley able to see the
4 photographs that were actually attached or that is not possible
5 anymore?

6 MR. JACKSON: I don't believe so, your Honor.

7 THE COURT: So I have these three documents. You have
8 explained what they are. Now tell me what inference you want
9 me to draw from them?

10 MR. JACKSON: Your Honor, we would like the Court to
11 draw the inference that by the time we get to the middle part
12 of 2011, Mr. Valle is already deeply involved in some of the
13 preparatory steps that relate to the charged conspiracy along
14 with -- just as he is already engaging in violating NYPD
15 regulations and what he is instructed is a violation of
16 violating federal law and NYPD regulations in terms of
17 accessing the databases that we heard testimony about earlier
18 today. He is also accumulating lists of women and putting
19 together sort of these free form thoughts about potential
20 targets. One of them is Ms. Frisca.

21 We think that because of that that allows us to argue
22 reasonably that in the spring of 2000, towards the end of the
23 school year, Mr. Valle shows up inexplicably at Ms. Frisca's
24 school. This is something that could be taken into account as
25 a reasonable -- there is a reasonable inference that this was

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1 one of the preparatory steps that Mr. Valle was taking in terms
2 of formulating his role in the conspiracy -- identifying women,
3 identifying various ways that they moved around their homes and
4 workplaces -- and so we would ask the Court to admit it for
5 that reason.

6 THE COURT: Now, the list of 90 that you have handed
7 up, how does this compare to the list that has already been
8 introduced?

9 MR. JACKSON: Your Honor, I think it is very similar.
10 I haven't compared it name for name, but many of the names that
11 appear on that are the same names.

12 THE COURT: What is the exhibit number for the list?

13 MR. JACKSON: It is Exhibit 442.

14 THE COURT: 442?

15 MR. JACKSON: Yes, your Honor.

16 THE COURT: Give me a moment.

17 There are a lot of names. They are certainly not in
18 the same order so I will have to examine all this more closely
19 later.

20 MS. GATTO: Your Honor, can we get a copy also?

21 THE COURT: Absolutely.

22 MR. JACKSON: Absolutely, your Honor. We're planning
23 to deliver copies as soon as we leave court with defense. We
24 shared with them a copy and went through the pages with them.

25 MS. GATTO: We also have some questions about it since

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Walsh - cross

1 we haven't seen it. I understand that Agent Flatley will
2 testify that the documents -- I don't know if it is documents
3 or document -- that he has the date it was created. But does
4 he also have additional medadata that indicates when it was
5 modified? It is kind of a meaningless date the date it was
6 created.

7 THE COURT: You have seen these documents?

8 MS. GATTO: I have, your Honor. They showed me
9 earlier.

10 THE COURT: Do you want to have them now as you are
11 speaking?

12 MS. GATTO: I wouldn't mind.

13 THE COURT: Okay.

14 MS. GATTO: My point really was that if the government
15 is going back and getting copies and additional forensics on
16 the document, we would like to know when the document was
17 created, when their forensics person says it was created.

18 THE COURT: He said that.

19 MS. GATTO: And also when it was modified because the
20 document is created document and adds a name in 2012. But
21 regardless I am not quite sure how this changes the Court's
22 equation from earlier that Ms. Frisca's name appears on a
23 document that we don't -- the government doesn't appear to have
24 any evidence to explain it amongst 90 other names. Next to her
25 name I think your Honor said was a word like Elizabeth. I

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Walsh - cross

1 don't know what the document is. We're just seeing it.

2 Anyway, even if the document was cited in 2011, I
3 don't think it changes the calculus. Is the government going
4 to offer every interaction Mr. Valle had with 90 women going
5 back to as far as possible? I understood the Court's ruling as
6 to the NCIC searches related to Andria and Kim because there
7 were indications in fantasy chats that Mr. Valle had had
8 fantasies about those women dated back for 10 years and eight
9 years I think was the time frame. I really don't think that
10 this document is comparable to the information the Court relied
11 on to admit the NCIC searches relating to Kim Sauer and Andria
12 Nobel.

13 So I don't think this changes anything. I do have
14 additional questions just because we haven't seen them and
15 there are forensic questions. But even without those questions
16 being answered, I don't see how anything should change and we
17 ask that the Court's ruling stays the same.

18 THE COURT: What is the evidence going to be as to
19 Government Exhibit 442? Is Agent Flatley going to be
20 testifying about the list?

21 MR. JACKSON: Yes, your Honor.

22 THE COURT: What can you tell me about what he is
23 going to say about the list?

24 MR. JACKSON: No. No. I am sorry. Your Honor, 442?
25 No, 442 is already in evidence.

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1 THE COURT: Okay.

2 MR. JACKSON: That was the subject of Mr. Walsh's
3 direct testimony.

4 THE COURT: I see. Then maybe you can refresh my
5 memory about what he said about the list.

6 MR. JACKSON: I think what he said --

7 THE COURT: Other than it was taken off of
8 Mr. Valle's -- Ms. Mangan's computer. I understand that he is
9 going to say he took it off the computer, but did he say
10 anything else about it?

11 MR. JACKSON: Your Honor, I hesitate because there has
12 been a lot of testimony today, but my recollection is that he
13 just testified that there were a number of names on this list
14 that were also the subject of discussions where Mr. Valle was
15 discussing violence against particular women including Kimberly
16 Sauer, including Maureen Hartigan, including Alissa Frisca,
17 Andria Condez, Kristen Ponticelli and some other women. He
18 also identified some of the terms at the bottom including,
19 white slavery, cooking class, which is also terms I believe --
20 it is similar to the terms that is next to Ms. Frisca's name.

21 Your Honor, I think the real essence of our argument
22 on this issue is what your Honor was pointing out with regard
23 to the Andria Nobel and the Kimberly Sauer hits on NCIC in 2011
24 is that there was some indication that Mr. Valle had been
25 involved in planning to reach back before 2012 in terms of

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1 targeting these women, specifically his own statements.

2 Here we have similarly an indication that Mr. Valle in
3 2011 was beginning to already identify women that he thought
4 would be potential targets and he specifically identified
5 Ms. Frisca. This is coming in on the heels and showing up at
6 her school in this way that is inexplicable. I think for that
7 reason, your Honor, and also for the other reason we
8 identified, which is that defense counsel completely opened the
9 door to the questions about what the nature of the relationship
10 was between Ms. Frisca, Mr. Valle and Ms. Mangan it is
11 important for us to have this limited testimony where she is
12 going to describe what I think amounts to a few sentences about
13 one of the few occasions in which she actually interacted with
14 Mr. Valle and will explain how that transpired and that will be
15 the end of that.

16 THE COURT: Give me a moment.

17 Do you have the cites to the trial transcript where
18 you claim that Ms. Gatto opened the door on this issue so that
19 I can take a look at them?

20 MR. JACKSON: Yes, your Honor.

21 THE COURT: I guess it would be during Ms. Mangan's
22 cross-examination?

23 MR. JACKSON: Yes, your Honor. It was during
24 Ms. Mangan's cross-examination at page --

25 THE COURT: 213?

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1 MR. JACKSON: 213, your Honor.

2 It begins at 213 and continues, your Honor, through
3 217 or 218. Approximately 218.

4 MS. GATTO: Can I get the pages again? I was getting
5 my transcript.

6 THE COURT: Pages 213 to 218.

7 I must say I have looked at the trial transcript pages
8 213 to 218 and I don't see much questioning about the
9 relationship between Mr. Valle and Ms. Frisca. There is on 213
10 questioning about the relationship between Alissa and
11 Ms. Mangan and the fact they were friends. They had dinners
12 together, she knew that Ms. Mangan was dating Mr. Valle and we
13 get into this issue about whether she likes police officers,
14 whether she went to the Christmas party, the fact that the
15 commanding officer kept hitting on her and making her
16 uncomfortable.

17 Then the first question that really goes directly to
18 her relationship with Mr. Valle, if she has a relationship, is
19 Ms. Gatto asks on page 215 whether at one point Ms. Frisca
20 asked Mr. Valle if he could speak at the school on career day
21 and Ms. Mangan said, No. Then Ms. Gatto elicited that
22 Mr. Valle came to the school, she was aware that Mr. Valle came
23 to the school and spoke to the students, but there is no
24 further discussion or suggestion that Ms. Mangan had anything
25 to do with that, had anything to do with Mr. Valle coming to

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1 the school to speak to the students.

2 Then the next part of the examination is the nature
3 the relationship was between Ms. Mangan and Ms. Frisca after
4 Ms. Mangan stopped working at the school. Ms. Mangan said that
5 they obviously didn't communicate as much because they were as
6 she said living very different lives with Ms. Mangan being a
7 mother and Ms. Frisca continuing to teach at the school.

8 Ms. Gatto elicited that Ms. Frisca went to Ms.
9 Mangan's baby shower, that the two had lunch in May or June of
10 2012 in the Upper East Side. She elicited the fact that
11 Mr. Valle drove Ms. Mangan into the city for that lunch, but
12 there was no suggestion that Mr. Valle and Ms. Frisca saw each
13 other at the time.

14 Then the next part of the examination was about the
15 PBA card that Mr. Valle had given to Ms. Mangan to give to
16 Ms. Frisca and really the only point that came out of that was
17 that Mr. Valle is giving PBA cards to other neighbors and so
18 forth.

19 So what I am saying, Mr. Jackson, is having looked at
20 the testimony I don't see a lot of questions about the nature
21 of the relationship between Mr. Valle and Ms. Frisca. It is
22 more about the nature of the relationship between Ms. Mangan
23 and Ms. Frisca.

24 MR. JACKSON: I agree, your Honor. The question is
25 about the nature of the relationship, but there are several

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1 questions that she asked which could only be related to the
2 relationship between Mr. Frisca and Mr. Valle. For example, at
3 one point she asked if Gil could talk in her place as sort of
4 career day.

5 THE COURT: And the answer to that was no.

6 MR. JACKSON: Right. Then she pushed, Do you remember
7 Gil going to the school and speaking to Alissa's class? And
8 the suggestion or implication of those questions is that Alissa
9 Frisca has some sort of relationship with Mr. Valle such that
10 it was so friendly and her and Mr. Valle got along so well that
11 she actually invited Mr. Valle to come to career day.

12 THE COURT: I understand the question, but the answer
13 was no. It was a flatout no. I am not sure why the jury would
14 assume that Ms. Frisca had something to do with Mr. Valle
15 coming to the school because the answer is no.

16 MR. JACKSON: Well, the followup, your Honor, is after
17 she says, Do you remember Gil going to the school, going and
18 speaking to Alissa's class, Ms. Mangan says, I remember he came
19 to career day, but I don't know if he went to her class. So I
20 think the jury could be left with the misimpression from this
21 line of questioning.

22 Clearly Ms. Gatto is attempting to push. The only
23 reason it is mentioned there is that now Ms Gatto has put in
24 the mind of the jury that Ms. Frisca had such a swimming
25 relationship with Mr. Valle that she is inviting him to career

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1 days, if there was a career day that Mr. Valle attended and
2 that Ms. Frisca invited Mr. Valle to come to the class and
3 speak to the students and that she is enamored with Mr. Valle.
4 It ties into the comments about the fact that there is she
5 likes police officers, which really has no relevance to
6 anything other than a suggestion that Ms. Frisca has some sort
7 of affinity to Mr. Valle that is inconsistent with -- I am not
8 even sure whatever notion the relationship that they are
9 attempting to paint a different picture of.

10 Moreover, your Honor, she is talking about events that
11 took place in 2011. She brought up a December 2011 Christmas
12 party. So we're in 2011.

13 MS. GATTO: Your Honor, I don't mean to interrupt but
14 that is not 2011. Mr. Mangan didn't work at the school in
15 2011.

16 THE COURT: No. It is not about Ms. Mangan working at
17 the school. She is already gone. She had the baby.

18 MS. GATTO: I don't think that is the testimony
19 actually. I don't think the testimony is that the career day
20 is 2011.

21 MR. JACKSON: I am talking about the Christmas party.

22 MS. GATTO: Sorry.

23 MR. JACKSON: The question is I am asking about the
24 question party, Do you know when the Christmas party was? And
25 Ms. Mangan says, December 2011. She says, Think about it. And

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1 the answer is, It was 2011. Then there is a question, Alissa
2 was single at the time. I am not sure again what that relates
3 to, but again the entire point of this area of questioning is
4 attempting to draw a certain picture of what the nature of the
5 relationship was between Ms. Frisca and Mr. Valle and Ms.
6 Mangan in 2011 before the date that is charged as the start of
7 the conspiracy.

8 So defense counsel is going into that before we even
9 put Ms. Frisca on the stand and attempting to preclude us from
10 asking the simple question when have you seen Mr. Valle. There
11 are only a handful of occasions that she actually interacted
12 with Mr. Valle. The fact that they want to argue that there is
13 a different implication to this occasion when they saw
14 Mr. Valle I don't think amounts to a reason for excluding the
15 evidence. There is no 403 issue. It certainly is relevant.
16 If it weren't relevant, the nature of the relationship, I don't
17 think they could have asked any of these questions. So, your
18 Honor, we would ask the Court to allow us to have that brief
19 questioning.

20 MS. GATTO: Your Honor, I think that it is clear in
21 the transcript. We all read it. Mr. Jackson is reading a lot
22 into the words. I already explained my examination was about
23 Ms. Mangan's relationship with Ms. Frisca. My additional
24 questions were aimed at addressing the government's argument,
25 which they have told us they are going to make that Ms. Mangan

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1 bringing a PBA card from Ms. Frisca from Gil was some sort of
2 creepy thing to do. It goes to the PBA card and they have not
3 sought to preclude introducing evidence that Ms. Mangan brought
4 PBA cards to Ms. Frisca.

5 The Court has ruled on this. We talked about this
6 earlier. We're spending a lot of time talking about the same
7 things over and over again. They are certainly going to elicit
8 from Mr. Frisca her relationship with Ms. Mangan and her
9 limited, if any, relationship with Mr. Valle. But to elicit
10 from her some event in April 2011 almost a year before any of
11 these chats related to her again is irrelevant, it is confusing
12 and is it prejudicial.

13 THE COURT: Really for every woman who has testified
14 up to now the nature of Mr. Valle's relationship has been
15 elicited. When did you last see him? How did you communicate
16 with him? Those questions have been asked I think with respect
17 to every woman who has testified.

18 (Continued on next page)
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21
22
23
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25

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1 MS. GATTO: By the government, yes, your Honor.

2 There is a very different relationship.

3 THE COURT: Actually, Ms. Gatto, you have gone into it
4 with a number of these women as well.

5 MS. GATTO: That's true, your Honor. There is a real
6 marked difference between Ms. Sauer and Ms. Hartigan and
7 Ms. Noble -- they all testified that they had relationships.
8 They were very good friends -- was some of the testimony --
9 with Mr. Valle, whether it was high school and whether it was
10 normal friendly interactions after high school, whether they
11 were great friends after college. This is a different
12 relationship. We are not asking the government not to elicit
13 the relationship, they will, but the April 2, 2011 date has
14 really nothing to do with the charges.

15 The government has alleged with Ms. Sauer and Ms.
16 Hartigan and Ms. Noble that he was somehow skirting around
17 trying to find their address. That is not the same argument
18 that was made with Ms. Frisca. I am not sure what the argument
19 is with Ms. Frisca. They are in totally two separate piles.

20 I don't think it is fair to say that because you have
21 elicited the relationship between Mr. Valle and his good friend
22 from college Ms. Sauer and his good friend Ms. Hartigan or
23 Mr. Valle and his friend Ms. Noble, that the government should
24 be permitted to introduce testimony related to a period outside
25 of the conspiracy from which they will ask the jury to infer

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1 that Mr. Valle was stalking her.

2 THE COURT: That brings us to back to an inquiry that
3 I made earlier today, which is what is the government's
4 intention is to do with the evidence if it were admitted. So I
5 asked that question earlier. Let me ask it again.

6 Suppose that the evidence came in. How does the
7 government intend to use it in summation?

8 MR. JACKSON: One, your Honor, I think some of that
9 depends on the way the rest of the case plays out. We still
10 have more than a week left of this case, and I think that a
11 number of those things would impact the way that we argue in
12 summation. But, I think that the first basic point that we are
13 want to make is that Mr. Valle did not have the type of
14 relationship with Ms. Frisca that would warrant some of the
15 activities he is engaging in, in terms of asking for her to
16 have a PBA card delivered to her. We think that that was an
17 attempt to sort of build up the relationship of trust which
18 coincides with what he talks about with certain of the
19 co-conspirators in terms of doing whatever can be done to sort
20 of gain access and getting closer to these women.

21 We would argue that it is an extreme coincidence and
22 we are likely to say to the jury that it looks like he was
23 attempting to observe Ms. Frisca outside of her school at that
24 point. That is a preliminary step in the process of the
25 formulation of a conspiracy.

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1 Similar to other steps in 2011, like illegally
2 searching NYPD and federal databases during the same time
3 period for other women. These are preliminary steps, but they
4 are important. They are limited inferences that we are asking
5 your Honor to draw.

6 And we think that defense counsel is completely
7 entitled to argue that this is simply a friendly coincidence,
8 something that is just a part of their normal relationship, but
9 I don't see a legal principle that warrants preclusion of this
10 area. If the relationship is relevant for all of these women
11 throughout the time period that they are dealing with
12 Mr. Valle, then it is relevant to Ms. Frisca. If the
13 relationship was relevant in 2011 and, as was the subject of
14 questioning by defense counsel, then their interactions in 2011
15 are relevant. So we would ask that the Court to allow us to
16 discover it.

17 THE COURT: Anything else, Ms. Gatto?

18 MS. GATTO: No. What Mr. Jackson is saying is that he
19 will use this information to ask the jury to infer that
20 Mr. Valle was stalking Alisa Frisca when he drove by her school
21 in the middle of the day in April 2011 when the conspiracy
22 didn't start until January 2012. That is prejudicial. It is
23 not relevant to the charges. It has limited probative value,
24 now when they concede the inference that they are going to ask
25 the jury to draw based on it.

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1 Our position has always been the same on it, and I
2 don't think that anything has changed since this morning when
3 we discussed it at length.

4 THE COURT: What has changed Ms. Gatto, they have
5 provided a list -- which I have not fully examined yet -- which
6 contains the names of many women who have been identified as
7 kidnap targets and about whom there has been evidence. And as
8 I said, I haven't had an opportunity to examine those lists,
9 and I will do that tonight. But that's what has changed, and
10 you know that's why we are having the conversation. That is
11 why it has changed.

12 MS. GATTO: That has changed, and Mr. Jackson has
13 brought up things that were available before. I guess my point
14 is, I don't see how this list of 90 women in a document we
15 don't know the date, that Ms. Frisca's name was added to it, in
16 a document that we don't know what it means -- it sounds like
17 the government is not going to have any evidence to somehow
18 link an event four or five months -- putting aside the
19 modification date -- that somehow links into a conspiracy that
20 starts in January 2012 for a woman who isn't even chatted about
21 until January, the end, of 2012. So I don't think that
22 changes.

23 THE COURT: Can I have those pages back.

24 Anything else anyone wants to raise before we break
25 for the evening.

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1 MS. GATTO: I wanted to talk about scheduling. It
2 seems like we may be on a schedule where the government may
3 rest tomorrow, if they are in the same place.

4 MR. JACKSON: I think it very much depends on how much
5 cross-examination is done. We are certainly going to get close
6 to finishing our case, if we don't finish it.

7 MS. GATTO: Your Honor, I know that you would like to
8 sit on Friday, and I would ask that you consider an application
9 that we do our legal motions on Friday and not take testimony.

10 There are a couple of things going on.

11 One is, access to Mr. Valle is very difficult,
12 especially when we are on trial. Our trial days are long days.
13 We have arguments -- mostly the parties' fault because we are
14 raising things -- but we are not getting out of court until 6,
15 6:30. It can take up to an hour for me to get Mr. Valle to be
16 produced after court. So I don't get to him until 8 o'clock.
17 I am kicked out for the count at 9 o'clock. So we have a hard
18 time effectively advising him on his right to testify, should
19 he choose to testify, and I am preparing him for that.

20 So we are asking that Friday be set aside for legal
21 motions. We anticipate having very significant Rule 29
22 motions. It will also give us time to produce -- should our
23 case have to go forward and that we have to produce whatever
24 documents to the government and resolve any issues that may
25 come up when we produce additional 3500 exhibits, if we have

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1 those.

2 I don't know what the government's position is. I
3 raised this with them earlier. I don't think that they take a
4 position, but we have been working at a @break-neck pace for a
5 long time and it has become difficult to advise Mr. Valle in
6 the detention condition that he is currently under. I put that
7 application out.

8 I know that the Court likes to sit on Friday and move
9 quickly. I think that we are well within the estimated time
10 frame that we have provided for this jury. We think that our
11 case will take about three days, so if we start on Friday, we
12 should be closing on Wednesday, maybe Thursday morning at the
13 latest.

14 THE COURT: What is the government's feeling?

15 MR. JACKSON: Your Honor, we defer to the Court's
16 wisdom on this scheduling matter.

17 I would just note that it is impossible for us to give
18 extremely helpful information about our estimation of how long
19 the defense case will be because we haven't gotten final
20 notification of who the defense witnesses are expected to be.
21 I think defense counsel is planning to give that to us today.
22 But assuming that the schedule is as defense suggests, we don't
23 have any specific objection to any of their application. We
24 defer to the Court's wisdom.

25 THE COURT: What I will say is that, if you believe I

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1 am in a position to tell the jury that we are making good
2 progress and that it is the lawyers' expectation that the trial
3 will be completed within the two-week period that I told the
4 jury it would be, and that I can tell them that, even with
5 taking Friday off -- and I am prepared to do that, but I try to
6 remain true to what I have told people on the jury about the
7 progress of the case. And so I am willing to entertain the
8 notion of not sitting on Friday, if by doing so I don't
9 endanger the two-week period that I told them about at the
10 outset.

11 MS. GATTO: I don't think that it is going to be a
12 problem. I think that we are going to finish well within the
13 two weeks, your Honor.

14 THE COURT: Mr. Jackson, I take it that you agree to
15 the extent that you can hypothesize what might happen next
16 week.

17 MR. JACKSON: Yes, your Honor. We would just ask
18 defense counsel, as soon as possible, to update us as soon as
19 possible on what the schedule will be for the next week.

20 THE COURT: All right. You can assume that we won't
21 sit on Friday, other than to entertain whatever motions there
22 might be.

23 MS. GATTO: The only other thing that is pending, your
24 Honor, is the deposition, the introduction of the deposition
25 for Mr. Merenkov.

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1 THE COURT: Right. Well, we can talk about that on
2 Friday.

3 Now, there are a few objections which I gather the
4 parties have not been able to reach an agreement on?

5 MR. JACKSON: I don't think so. We waived our
6 objections to certain questions. We are not confident that we
7 have reached agreement on the others.

8 THE COURT: Ms. Gatto, is it your intention to play
9 the whole deposition?

10 MS. GATTO: Yes, your Honor. We would have to edit
11 out any portions that the Court strikes out because of
12 objections, but that would take a little time. But our plan is
13 to play the whole transcript -- the whole video.

14 There is an issue of whether the transcript would be
15 offered into evidence. I think that the government might have
16 objected. We would just suggest that the transcript be handed
17 out to the jury the way that transcripts are handed out in
18 cases where we play audiotapes or videotapes as an aid, which I
19 think will resolve the dispute.

20 THE COURT: I don't object. It sounds just like a
21 transcript of a recorded call.

22 MR. JACKSON: It is a little bit different, your
23 Honor, because this is testimony. This is not a recorded call
24 from a wiretap. I think it is important for the jury to remain
25 focused on the way the witness is answering and responding.

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1 This is supposed to be a substitute for their in-court
2 testimony and I think particularly because the witness is
3 testifying in Russian, the jury could become impatient and lose
4 focus on the actual video and just read the actual transcript.

5 THE COURT: I think those are valid points, and I am
6 sure we want the jury to focus on the demeanor of the witness.
7 I know they cannot understand what he is saying, but they can
8 pick up clues from his body language and demeanor. And if they
9 are given a transcript, it does seem to me that there is a risk
10 that they may just read the transcript, and that is not what I
11 want them doing. I want them watching the witness.

12 MS. GATTO: Your Honor, if during deliberations they
13 want the video, we can offer them --

14 THE COURT: Absolutely.

15 MS. GATTO: I haven't listened or watched the video
16 since we got it back. We had a professional videographer. I
17 am hopeful that the audio is fine. I think Ms. Katz listened
18 to it and said it is fine.

19 THE COURT: So if anything goes wrong, it is
20 Ms. Katz's fault.

21 MR. JACKSON: Of course, your Honor, we have no
22 objection if the jury asks for it, like any other transcript.

23 THE COURT: Let me tell you that my practice is to
24 send back into the jury room all documentary exhibits, so you
25 can assume that that is going to happen. If a document came

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1 into evidence it will go back into the jury room. As we get
2 closer to the end of the trial, I will want the lawyers to
3 agree on what is going to go back into the jury room. And,
4 yes, I will tell them that if they want to see something like
5 the video which is not a document, all that they have to do is
6 ask for it and we will play it for them.

7 Anything else that we should talk about now?

8 MS. GATTO: Judge, just if the government can be
9 instructed and remind them that the witness is on cross and not
10 to prep him for tomorrow and not to discuss his testimony.

11 MR. JACKSON: We plan to instruct him that he is to
12 speak to no one.

13 THE COURT: Anything else?

14 (Proceedings adjourned until 9:30 a.m., February 28,
15 2013)

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